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W. H. Talcott
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Macao

U. S. Treaties

TREATIES

BETWEEN

THE UNITED STATES OF AMERICA

AND

CHINA, JAPAN, LEWCHEW AND SIAM,

ACTS OF CONGRESS,

AND THE ATTORNEY-GENERAL'S OPINION,

WITH THE DECREES AND REGULATIONS ISSUED

FOR THE GUIDANCE OF U. S. CONSULAR COURTS

IN CHINA.

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HONGKONG.
1862.

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LEGATION OF THE UNITED STATES
OF AMERICA TO CHINA,
March 1st, 1862.

BY direction of His Excellency Hon. ANSON BURLINGAME, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to China, the Treaties of Wánghiá and Tientsin, with the Acts of Congress of 1848 and 1860 extending the laws of the United States over their citizens in China and elsewhere in Asia, the various decrees, regulations, and notifications based thereon issued by the Commissioners to China, together with the opinion of Mr. Attorney-General Cushing, are, in order to render the same accessible to American citizens and to such others as may become parties to suits in the Consular Courts of the United States in China, hereby published for their information and guidance, the same having been carefully collated with the copies in the archives of the Legation. In addition to the above, and having reference to section first of the Act of June 22, 1860, the treaties between the United States and Japan, Lewchew, and Siam have been included in the collection.

By Order,
S. WELLS WILLIAMS,
Secretary of Legation.

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TREATY OF PEACE, AMITY, AND COMMERCE,

BETWEEN

THE UNITED STATES OF AMERICA AND THE CHINESE EMPIRE.

Dated at Wanghia, July 3d, 1844.
Ratified by the President, January 17th, 1845.
Exchanged, December 31st, 1845.
Proclaimed, April 18th, 1846.

PREAMBLE.

The United States of America and the Tá Tsing Empire, desiring to establish firm, lasting and sincere friendship between the two nations, have resolved to fix, in a manner clear and positive, by means of a Treaty, or general Convention of peace, amity, and commerce, the rules which shall in future be mutually observed in the intercourse of their respective countries: for which most desirable object, the President of the United States has conferred full powers on their commissioner Caleb Cushing, Envoy extraordinary and minister plenipotentiary of the United States to China: and the august Sovereign of the Tá Tsing Empire, on his Minister and commissioner extraordinary Kiying, of the Imperial House, a vice-guardian of the heir apparent, Governor-general of the Two Kwáng, and Superintendent general of the trade and foreign intercourse of the five ports. And the said commissioners, after having exchanged their said full powers, and duly considered the premises, have agreed to the following articles.

PEACE TO BE MAINTAINED.

Art. I. There shall be a perfect, permanent and universal peace, and a sincere and cordial amity, between the United States of America on the one part, and the Tá Tsing Empire on the other part, and between their people respectively, without exception of persons or places.

DUTIES TO BE LEVIED BY A TARIFF.

ART. II. Citizens of the United States, resorting to China for the purposes of commerce, will pay the duties of import and export prescribed in the tariff, which is fixed by and made a part of this Treaty. They shall in no case be subject to other or higher duties than are or shall be required of the people of any other nation whatever. Fees and charges of every sort are wholly abolished, and officers of the revenue who may be guilty of exaction shall be punished according to the laws of China. If the Chinese government desire to modify in any respect the said tariff, such modifications shall be made only in consultation with consuls or other functionaries thereto duly authorized in behalf of the United States, and with consent thereof. And if additional advantages or privileges of whatever description be conceded hereafter by China to any other nation, the United States and the citizens thereof shall be entitled thereupon to a complete, equal, and impartial participation in the same.

TRADE CARRIED ON AT FIVE PORTS.

ART. III. The citizens of the United States are permitted to frequent the five ports of Kwángchau, Amoy, Fuhchau, Ningpo and Sháng-hái, and to reside with their families, and to proceed at pleasure, with their vessels and merchandise to or from any foreign port, and from either of the said five ports to any other of them. But said vessels shall not unlawfully enter the other ports of China, nor carry on a clandestine and fraudulent trade along the coasts thereof. And any vessel, belonging to a citizen of the United States, which violates this provision, shall with her cargo be subject to confiscation to the Chinese government.

CONSULS TO BE APPOINTED AT EACH.

ART. IV. For the superintendence and regulation of the concerns of the citizens of the United States doing business at the said five ports, the government of the United States may appoint consuls, or other officers at the same, who shall be duly recognized as such by the officers of the Chinese government, and shall hold official intercourse and correspondence with the latter, either personal or in writing, as occasion may require, on terms of equality and reciprocal respect. If disrespectfully treated or aggrieved in any way by the local authorities, the said officers on the one hand shall have the right to make representation of the same to the superior officers of the Chinese government, who will see that full inquiry and strict justice be had in the premises; and on the other hand, the said consuls will carefully

avoid all acts of unnecessary offense to, or collision with, the officers and people of China.

IMPORTS AND EXPORTS NOT TO BE LIMITED.

ART. V. At each of the said five ports, citizens of the United States, lawfully engaged in commerce, shall be permitted to import from their own or any other ports into China, and sell there, and purchase therein and export to their own or any other ports, all manner of merchandise, of which the importation or exportation is not prohibited by this Treaty, paying the duties which are prescribed by the tariff hereinbefore established, and no other charges whatsoever.

TWO RATES OF TONNAGE DUTY TO BE PAID.

ART. VI. Whenever any merchant vessel belonging to the United States shall enter either of the said five ports for trade, her papers shall be lodged with the consul, or person charged with affairs, who will report the same to the commissioner of customs; and tonnage duty shall be paid on said vessel at the rate of five mace per ton, if she be over one hundred and fifty tons burden; and one mace per ton, if she be of the burden of one hundred and fifty tons or under, according to the amount of her tonnage as specified in the register; said payment to be in full of the former charges of measurement and other fees, which are wholly abolished. And if any vessel, which having anchored at one of the said ports, and there paid tonnage duty, shall have occasion to go to any others of the said ports to complete the disposal of her cargo, the consul or person charged with affairs, will report the same to the commissioner of customs, who, on the departure of the said vessel, shall note in the port-clearance that the tonnage duties have been paid, and report the same to the other custom-houses: in which case, on entering another port, the said vessel will only pay duty there on her cargo, but shall not be subject to the payment of tonnage duty a second time.

PASSAGE BOATS NOT TO PAY TONNAGE DUTY.

ART. VII. No tonnage duty shall be required on boats belonging to citizens of the United States, employed in the conveyance of passengers, baggage, letters, and articles of provision, or others not subject to duty, to or from any of the five ports. All cargo boats, however, conveying merchandise subject to duty, shall pay the regular tonnage duty of one mace per ton, provided they belong to citizens of the United States, but not if hired by them from subjects of China.

HIRING PILOTS, LABORERS, SERVANTS, BOATS, &c.

ART. VIII. Citizens of the United States, for their vessels bound in, shall be allowed to engage pilots, who will report said vessels at the passes, and take them into port; and when the lawful duties have all been paid, they may engage pilots to leave port. It shall also be lawful for them to hire at pleasure, servants, compradores, linguists, and writers, and passage or cargo boats; and to employ laborers, seamen, and persons for whatever necessary service, for a reasonable compensation to be agreed on by the parties, or settled by application to the consular officer of their government without interference on the part of the local officers of the Chinese government.

CUSTOM-HOUSE GUARD-BOATS.

ART. IX. Whenever merchant vessels belonging to the United States shall have entered port, the superintendent of customs will, if he see fit, appoint custom-house officers to guard said vessels, who may live on board the ship or their own boats at their convenience; but provision for the subsistence of said officers shall be made by the superintendent of customs, and they shall not be entitled to any allowance from the vessel or owner thereof; and they shall be subject to suitable punishment for any exaction practised by them in violation of this regulation.

RULES ABOUT DISCHARGING CARGO IN PART OR IN WHOLE.

ART. X. Whenever a merchant vessel belonging to the United States shall cast anchor in either of the said ports, the supercargo, master, or consignee will, within forty-eight hours, deposit the ship's papers in the hands of the consul, or person charged with the affairs of the United States, who will cause to be communicated to the superintendent of customs a true report of the name and tonnage of such vessel, the names of her men, and of the cargo on board, which being done, the superintendent will give a permit for the discharge of her cargo. And the master, supercargo, or consignee, if he proceed to discharge the cargo without such permit, shall incur a fine of five hundred dollars, and the goods so discharged without permit shall be subject to forfeiture to the Chinese government. But if the master of any vessel in port desire to discharge a part only of the cargo, it shall be lawful for him to do so, paying duty on such part only, and to proceed with the remainder to any other ports. Or, if the master so desire, he may within forty-eight hours after the arrival of the vessel, but not later, decide to depart without breaking bulk; in which case he will not be subject to pay tonnage or other duties or charges,

until, on his arrival at another port, he shall proceed to discharge cargo, when he will pay the duties on vessel and cargo according to law. And the tonnage duties shall be held to be due after the expiration of said forty-eight hours.

EXAMINATION OF GOODS FOR PAYMENT OF DUTIES.

ART. XI. The superintendent of customs, in order to the collection of the proper duties, will, on application made to him through the consul, appoint suitable officers, who shall proceed, in the presence of the captain, supercargo, or consignee, to make a just and fair examination of all goods in the act of being discharged for importation, or laden for exportation on board any merchant vessel of the United States. And if dispute occur in regard to the value of goods subject to an ad valorem duty, or in regard to the amount of tare, and the same cannot be satisfactorily arranged by the parties, the question may within twenty-four hours, and not afterwards, be referred to the said consul to adjust with the superintendent of customs.

STANDARD BALANCES AND MEASURES TO BE FURNISHED.

ART. XII. Sets of standard balances, and also weights and measures duly prepared, stamped, and sealed, according to the standard of the custom-house at Canton, shall be delivered by the superintendent of customs to the consuls at each of the five ports, to secure uniformity, and prevent confusion in measures and weights of merchandise.

DUTIES TO BE SETTLED BEFORE A SHIP CAN LEAVE.

ART. XIII. The tonnage duty on vessels belonging to citizens of the United States shall be paid on their being admitted to entry. Duties of import shall be paid on the discharge of the goods, and duties of export on the lading of the same. When all such duties shall have been paid, and not before, the superintendent of customs shall give a port-clearance, and the consul shall return the ship's papers, so that she may depart on her voyage. The duties shall be paid to the shroffs authorized by the Chinese government to receive the same in its behalf. Duties payable by merchants of the United States shall be received either in sycee silver or in foreign money, at the rate of exchange as ascertained by the regulations now in force. And imported goods, on their re-sale or transit in any part of the empire, shall be subject to the imposition of no higher duty than they are accustomed to pay at the date of this Treaty.

TRANSHIPMENT OF GOODS BY PERMISSION.

ART. XIV. No goods on board any merchant vessel of the United States in port, are to be transhipped to another vessel, unless there be particular occasion therefor; in which case the occasion shall be certified by the consul to the superintendent of customs, who may appoint officers to examine into the facts, and permit the transhipment. And if any goods be transhipped without such application, inquiry, and permit, they shall be subject to be forfeited to the Chinese government.

TRAFFIC OPEN TO ALL CLASSES.

ART. XV. The former limitation of the trade of foreign nations to certain persons appointed at Canton by the government, and commonly called hong-merchants, having been abolished, citizens of the United States, engaged in the purchase or sale of goods of import or export, are admitted to trade with any and all subjects of China without distinction; they shall not be subject to any new limitations, nor impeded in their business by monopolies or other injurious restrictions.

GOVERNMENTS NOT RESPONSIBLE FOR DEBTS.

ART. XVI. The Chinese government will not hold itself responsible for any debts which may happen to be due from subjects of China to citizens of the United States, or for frauds committed by them; but citizens of the United States may seek redress in law; and on suitable representation being made to the Chinese local authorities through the consul, they will cause due examination in the premises, and take all proper steps to compel satisfaction. But in case the debtor be dead or without property, or have absconded, the creditor cannot be indemnified according to the old system of the co-hong so called. And if citizens of the United States be indebted to subjects of China, the latter may seek redress in the same way through the consul, but without any responsibility for the debt on the part of the United States.

LIMITS AND ACCOMMODATIONS FOR AMERICANS.

ART. XVII. Citizens of the United States, residing or sojourning at any of the ports open to foreign commerce, shall enjoy all proper accommodation in obtaining houses and places of business, or in hiring sites from the inhabitants on which to construct houses and places of business, and also hospitals, churches and cemeteries. The local authorities of the two governments shall select in concert the sites for the foregoing objects, having due regard to the feelings of the people in the location thereof; and the parties interested will fix

the rent by mutual agreement, the proprietors on the one hand not demanding any exorbitant price, nor the merchants on the other unreasonably insisting on particular spots, but each conducting with justice and moderation. And any desecration of said cemeteries by subjects of China, shall be severely punished according to law. At the places of anchorage of the vessels of the United States, the citizens of the United States, merchants, seamen, or others sojourning there, may pass and repass in the immediate neighborhood; but they shall not at their pleasure make excursions into the country among the villages at large, nor shall they repair to public marts for the purpose of disposing of goods unlawfully, and in fraud of the revenue. And in order to the preservation of the public peace, the local officers of government at each of the five ports shall, in concert with the consuls, define the limits beyond which it shall not be lawful for citizens of the United States to go.

LEARNING THE CHINESE LANGUAGE.

ART. XVIII. It shall be lawful for the officers or citizens of the United States to employ scholars and people of any part of China, without distinction of persons, to teach any of the languages of the empire, and to assist in literary labors; and the persons so employed shall not for that cause be subject to any injury on the part either of the government or of individuals; and it shall, in like manner, be lawful for citizens of the United States to purchase all manner of books in China.

PROTECTION GRANTED TO PEACEABLE RESIDENTS.

ART. XIX. All citizens of the United States in China peaceably attending to their affairs, being placed on a common footing of amity and goodwill with subjects of China, shall receive and enjoy for themselves, and everything appertaining to them, the special protection of the local authorities of government, who shall defend them from all insult or injury of any sort on the part of the Chinese. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent and lawless persons, the local officers, on requisition of the consul, will immediately dispatch a military force to disperse the rioters, and will apprehend the guilty individuals, and punish them with the utmost rigor of the law.

GOODS NOT TO BE SUBJECTED TO A SECOND DUTY.

ART. XX. Citizens of the United States who may have imported merchandise into any of the free ports of China, and paid the duty

thereon, if they desire to re-export the same in part or in whole to any other of the said ports, shall be entitled to make application through their consul, to the superintendent of customs, who, in order to prevent frauds on the revenue, shall cause examination to be made by suitable officers to see that the duties paid on such goods as are entered on the custom-house books, correspond with the representation made, and that the goods remain with their original marks unchanged, and shall then make a memorandum in the port-clearance of the goods and the amount of duties paid on the same, and deliver the same to the merchant, and shall also certify the facts to the officers of customs of the other ports: all which being done, on the arrival in port of the vessel in which the goods are laden, and everything being found on examination there to correspond, she shall be permitted to break bulk, and land the said goods without being subject to the payment of any additional duty thereon. But if, on such examination, the superintendent of customs shall detect any fraud on the revenue in the case, then the goods shall be subject to forfeiture and confiscation to the Chinese government.

AMERICANS AMENABLE TO THEIR OWN CONSULS.

ART. XXI. Subjects of China, who may be guilty of any criminal act towards citizens of the United States, shall be arrested and punished by the Chinese authorities according to the laws of China. And citizens of the United States, who may commit any crime in China, shall be subject to be tried and punished only by the consul, or other public functionary of the United States thereto authorized, according to the laws of the United States. And in order to the prevention of all controversy and disaffection, justice shall be equitably and impartially administered on both sides.

AMERICAN SHIPS IN TIME OF WAR.

ART. XXII. Relations of peace and amity between the United States and China being established by this treaty, and the vessels of the United States being admitted to trade freely to and from the five ports of China open to foreign commerce, it is further agreed, that in case, at any time hereafter, China should be at war with any foreign nation whatever, and should for that cause exclude such nation from entering her ports, still the vessels of the United States shall not the less continue to pursue their commerce in freedom and security, and to transport goods to and from the ports of the belligerent parties, full respect being paid to the neutrality of the flag of the United States: *Provided*, that the said flag shall not protect vessels engaged

in the transportation of officers or soldiers in the enemy's service; nor shall said flag be fraudulently used to enable the enemy's ships with their cargoes to enter the ports of China: but all such vessels so offending shall be subject to forfeiture and confiscation to the Chinese government.

TRADE REPORTS TO BE ANNUALLY MADE.

ART. XXIII. The consuls of the United States at each of the five ports open to foreign trade, shall make annually to the respective governors-general thereof, a detailed report of the number of vessels belonging to the United States which have entered and left said ports during the year, and of the amount and value of goods imported or exported in said vessels, for transmission to and inspection of the Board of Revenue.

SETTLEMENT OF DISPUTES.

ART. XXIV. If citizens of the United States have special occasion to address any communication to the Chinese local officers of government, they shall submit the same to their consul, or other officer, to determine if the language be proper and respectful, and the matter just and right; in which event, he shall transmit the same to the appropriate authorities for their consideration and action in the premises. In like manner, if subjects of China have special occasion to address the consul of the United States, they shall submit the communication to the local authorities of their own government, to determine if the language be respectful and proper, and the matter just and right: in which case the said authorities will transmit the same to the consul or other officer for his consideration and action in the premises. And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction.

AMERICANS TO SETTLE THEIR OWN CONTROVERSIES.

ART. XXV. All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction, and regulated by the authorities of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government shall be regulated by the treaties existing between the United States and such governments respectively, without interference on the part of China.

CONSULS TO CONTROL SHIPS. PIRACIES.

ART. XXVI. Merchant vessels of the United States, lying in the waters of the five ports of China open to foreign commerce, will be under the jurisdiction of the officers of their own government, who, with the master and owners thereof, will manage the same without control on the part of China. For injuries done to the citizens or the commerce of the United States by any foreign power, the Chinese government will not hold itself bound to make reparation. But if the merchant vessels of the United States, while within the waters over which the Chinese government exercises jurisdiction, be plundered by robbers or pirates, then the Chinese local authorities, civil and military, on receiving information thereof, will arrest the said robbers or pirates, and punish them according to law, and will cause all the property which can be recovered, to be placed in the hands of the nearest consul, or other officer of the United States, to be by him restored to the true owner. But if, by reason of the extent of territory and numerous population of China, it should, in any case happen that the robbers cannot be apprehended, or the property only in part recovered, then the law will take its course in regard to the local authorities, but the Chinese government will not make indemnity for the goods lost.

WRECKED SHIPS AND CREWS TO BE PROTECTED.

ART. XXVII. If any vessel of the United States shall be wrecked or stranded on the coast of China, and be subjected to plunder or other damage, the proper officers of government, on receiving information of the fact, will immediately adopt measures for their relief and security; and the persons on board shall receive friendly treatment, and be enabled at once to repair to the most convenient of the five ports, and shall enjoy all facilities for obtaining supplies of provisions and water. And if a vessel shall be forced, in whatever way, to take refuge in any port other than one of the five ports, then in like manner the persons on board shall receive friendly treatment, and the means of safety and security.

NO EMBARGO TO BE PUT ON AMERICAN SHIPS.

ART. XXVIII. Citizens of the United States, their vessels and property, shall not be subject to any embargo; nor shall they be seized or forcibly detained for any pretence of the public service; but they shall be suffered to prosecute their commerce in quiet, and without molestation or embarrassment.

MUTINEERS AND CRIMINALS FLEEING FROM JUSTICE.

ART. XXIX. The local authorities of the Chinese government will cause to be apprehended all mutineers or deserters from on board the vessels of the United States in China, and will deliver them up to the consuls or other officers for punishment. And if criminals, subjects of China, take refuge in the houses or on board the vessels of citizens of the United States, they shall not be harbored or concealed, but shall be delivered up to justice, on due requisition by the Chinese local officers, addressed to those of the United States. The merchants, seamen, and other citizens of the United States shall be under the superintendence of the appropriate officers of their government. If individuals of either nation commit acts of violence and disorder, use arms to the injury of others, or create disturbances endangering life, the officers of the two governments will exert themselves to enforce order, and to maintain the public peace, by doing impartial justice in the premises.

MODE OF OFFICIAL COMMUNICATION PRESCRIBED.

ART. XXX. The superior authorities of the United States and of China, in corresponding together, shall do so in terms of equality, and in the form of mutual communication *(cháu hwui.)* The consuls and the local officers, civil and military, in corresponding together, shall likewise employ the style and form of mutual communication *(cháu hwui.)* When inferior officers of the one government address superior officers of the other, they shall do so in the style and form of memorial *(shin chin.)* Private individuals in addressing superior officers shall employ the style of petition *(pin ching.)* In no case shall any terms or style be suffered which shall be offensive or disrespectful to either party. And it is agreed that no presents, under any pretext or form whatever shall ever be demanded of the United States by China, or of China by the United States.

COMMUNICATIONS FOR THE EMPEROR.

ART. XXXI. Communications from the government of the United States to the court of China shall be transmitted through the medium of the imperial commissioner charged with the superintendence of the concerns of foreign nations with China, or through the governors-general of the Liáng Kwáng, that of Min and Cheh, or that of the Liáng Kiáng.

SHIPS OF WAR MAY VISIT ANY PORT.

ART. XXXII. Whenever ships of war of the United States, in cruising for the protection of the commerce of their country, shall

arrive at any of the ports of China, the commanders of said ships, and the superior local authorities of government shall hold intercourse together in terms of equality and courtesy, in token of the friendly relations of their respective nations. And the said ships of war shall enjoy all suitable facilities on the part of the Chinese government in the purchase of provisions, procuring water, and making repairs, if occasion require.

CLANDESTINE TRAFFIC AND OPIUM DISALLOWED.

ART. XXXIII. Citizens of the United States, who shall attempt to trade clandestinely with such of the ports of China as are not open to foreign commerce, or who shall trade in opium or any other contraband article of merchandise, shall be subject to be dealt with by the Chinese government, without being entitled to any countenance or protection from that of the United States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations, as a cover for the violation of the laws of the empire.

REVISION OF THIS TREATY.

ART. XXXIV. When the present Convention shall have been definitively concluded, it shall be obligatory on both powers, and its provisions shall not be altered without grave cause; but, inasmuch as the circumstances of the several ports of China open to foreign commerce are different, experience may show that inconsiderable modifications are requisite in those parts which relate to commerce and navigation; in which case the two governments will, at the expiration of twelve years from the date of said Convention, treat amicably concerning the same, by the means of suitable persons appointed to conduct such negotiation.

And when ratified, this treaty shall be faithfully observed in all its parts by the United States and China, and by every citizen and subject of each. And no individual state of the United States can appoint or send a minister to China to call in question the provisions of the same.

The present treaty of peace, amity, and commerce shall be ratified and approved by the President of the United States, by and with the advice and consent of the Senate thereof, and by the august Sovereign of the Tá Tsing Empire; and the ratifications shall be exchanged within eighteen months from the date of the signature thereof, or sooner if possible.

In faith whereof, we, the respective plenipotentiaries of the United States of America, and of the Tá Tsing Empire, as aforesaid, have signed and sealed these presents.

Done at Wánghiá, this third day of July, in the year of our Lord Jesus Christ, one thousand eight hundred and forty-four, and of Táukwáng, the twenty-fourth year, fifth month, and eighteenth day.

C. CUSHING. L. S.

TSIYENG. L. S.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND CHINA.

Signed at Tientsin, June 18th, 1858.
Ratified by the Emperor, July 3d, 1858.
Ratified by the President, December 21st, 1858.
Exchanged at Pehtang, August 16th, 1859.
Proclaimed by the President, January 26th, 1860.

PROCLAMATION.

WHEREAS a Treaty of amity and commerce between the United States of America and the Tá Tsing Empire was negotiated between the plenipotentiaries of those nations, and signed by them in the English and Chinese languages on the 18th day of June, 1858, at Tientsin, which treaty has been ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the Emperor of China; and the said Ratifications have been duly exchanged:

Therefore be it known that this Treaty is now published for the general information and guidance of whom it may concern; and I hereby call upon all the citizens of the United States residing in, or visiting this Empire, to obey its stipulations, and thereby promote the amicable relations now existing between the two nations.

At all the ports open to commerce, tonnage duties will be paid on merchant vessels belonging to the United States, according to the provisions of this treaty, on and after the 24th day of November, 1859.

The ports of Cháu-chau or Swatau, in the province of Kwangtung, and Taiwan on Formosa in the province of Fuhkien, will be opened to American commerce, and for Americans to reside with their families, on and after the first day of January, 1860.

Given under my hand and seal of office at the Legation of the United States in Shanghai, this eighth day of November, A.D. eighteen hundred and fifty-nine, and of the Independence of the United States, the eighty-fourth.

JOHN E. WARD,
Envoy Extraordinary and Minister Plenipotentiary of the United States to China.

Attest,
W. WALLACE WARD,
Secretary of Legation.

大合衆國便宜行事全權大臣花沙納
欽差吏部尚書鑲藍旗漢軍都統
欽差東閣大學士總理刑部事務桂良
便宜行事全權大臣
大皇帝特派

大亞美理駕合衆國因欲固存堅
中華大清國與
大清
後遵守成規爲此美舉
和好貿易章程以爲兩國日
規法修訂友睦條約及太平
久眞誠友誼明定公正確實
茲

PREAMBLE.

The United States of America and the Tá Tsing Empire, desiring to maintain firm, lasting, and sincere friendship, have resolved to renew, in a manner clear and positive, by means of a treaty or general convention of peace, amity, and commerce, the rules which shall in future be mutually observed in the intercourse of their respective countries; for which most desirable object the President of the United States and the august Sovereign of the Tá Tsing Empire have named for their plenipotentiaries, to wit: the President of the United States of America, William B. Reed, Envoy Extraordinary and Minister Plenipotentiary to China; and his Majesty the Emperor of China, Kweiliang, a member of the Privy Council and Superintendent of the Board of Punishments, and Hwashana, President of the Board of Civil Office, and Major-General of the Bordered Blue Banner Division of the Chinese Bannermen, both of them being Imperial Commission-

一俟

第二款

中善爲調處以示友誼關切之事一經照知必須彼此相助從而啟爭端若他國有何不公輕藐或異更不得互相欺凌偶因小故其民人各皆照前和平友好毋得一嗣後 大清與 大合衆兩國並

第一款

定條款臚列於左

欽賜之權互相較閱俱屬善當所有議公同酌議各將所奉

欽差駐劄中華便宜行事全權大臣列衞廉大伯理璽天德特派

ers and Plenipotentiaries: And the said ministers, in virtue of the respective full powers they have received from their governments, have agreed upon the following articles:

PEACE TO BE MAINTAINED. MEDIATION.

Art. I.—There shall be, as there has always been, peace and friendship between the United States of America and the Tá Tsing Empire, and between their people respectively. They shall not insult or oppress each other for any trifling cause, so as to produce an estrangement between them; and if any other nation should act unjustly or oppressively, the United States will exert their good offices, on being informed of the case, to bring about an amicable arrangement of the question, thus showing their friendly feelings.

CUSTODY OF TREATIES.

Art. II.—In order to perpetuate friendship, on the exchange of

一條約各款必使兩國軍民人等盡得聞

第三款

兩國之友誼歷久弗替矣

大伯理璽天德批准原册于北京都城則

大合衆國當著內閣大學士恭藏

大清國當著內閣大學士恭藏

大皇帝批准原册于華盛頓都城

大清國收藏大合衆國當著首相恭藏

大合衆國允各將條約批准互易後必須敬謹

大皇帝

大伯理璽天德既得選舉國會紳耆大臣議

大清國

ratifications by the President, with the advice and consent of the Senate of the United States, and by his Majesty the Emperor of China, this treaty shall be kept and sacredly guarded in this way, viz: the original treaty, as ratified by the President of the United States, shall be deposited at Peking, the capital of his Majesty the Emperor of China, in charge of the Privy Council; and as ratified by his Majesty the Emperor of China, shall be deposited at Washington, the capital of the United States, in charge of the Secretary of State.

TREATIES TO BE PUBLISHED BY BOTH COUNTRIES.

ART. III.—In order that the people of the two countries may know and obey the provisions of this treaty, the United States of America agree, immediately on the exchange of ratifications, to proclaim the same and publish it by proclamation in the gazettes where the laws

塘驛站齎遞均無不可其照會
以上各督撫照例代送或交提
來至照會京師內閣文件或交
廣閩浙兩江督撫一體公文往
閣大學士文移交往並得與兩
行之禮信義之道與大清內
國駐劄中華之大臣任聽以平
因欲堅立友誼嗣後
大合衆

第四款

一體頒行
亦即通諭都城并著各省督撫
傳大清國于批准互易後
批准互易後立即宣布照例刊
知俾可遵守
大合衆國于

of the United States of America are published by authority, and his Majesty the Emperor of China, on the exchange of ratifications, agrees immediately to direct the publication of the same at the capital and by the governors of all the provinces.

CORRESPONDENCE BETWEEN THE MINISTER AND CHINESE OFFICERS.

ART. IV.—In order further to perpetuate friendship, the minister or commissioner, or the highest diplomatic representative of the United States of America in China, shall at all times have the right to correspond on terms of perfect equality and confidence with the officers of the Privy Council at the capital, or with the governors-general of the Two Kwang, the provinces of Fuhkien and Chehkiang, or of the Two Kiang; and whenever he desires to have such correspondence with the Privy Council at the capital, he shall have the right to send it through either of the said governors-general, or by the general post; and all such communications shall be sent under seal, which shall be most carefully respected. The Privy Council and governors-

輕請到京至上京必須先行照
迎接若係小事不得因有此條
津海口先行知照地方官派船
或由陸路不可駕駛兵船進天
定議不得駛延往來應由海口
每年不得逾一次到京後迅速
憲酌議關涉彼此利益事件但
內閣大學士或與派出平行大
論何時應准到北京暫住與
大合衆國大臣遇有要事不

第五款

撫當酌量迅速照覆
遞遇有咨照等件內閣暨各督
公文加有印封者必須謹慎齎

general, as the case may be, shall in all cases consider and acknowledge such communications promptly and respectfully.

VISIT OF THE MINISTER TO PEKING.

ART. V.—The minister of the United States of America in China, whenever he has business, shall have the right to visit and sojourn at the capital of his Majesty the Emperor of China, and there confer with a member of the Privy Council, or any other high officer of equal rank deputed for the purpose, on matters of common interest and advantage. His visits shall not exceed one in each year, and he shall complete his business without unnecessary delay.

He shall be allowed to go by land, or come to the mouth of the Pei-ho, into which he shall not bring ships of war, and he shall inform the authorities at that place in order that boats may be provided for him to go on his journey. He is not to take advantage of this stipulation to request visits to the capital on trivial occasions. Whenever he means to proceed to the capital, he shall communicate in writing his intention to the Board of Rites at the capital, and thereupon the said Board shall give the necessary directions to facilitate his journey,

一嗣後大清國大臣與大合衆欽差一律照辦同沾此典計議特許應准大合衆國到彼居住或久或暫即毋庸再行允准與衆友國欽差前往京師大皇帝情願與別國或立約或爲別故一嗣後無論何時倘中華在外到處不得帶貨貿易得過二十人之數僱覓華民供役其跟從大合衆國欽差人等不品預備公館所有費用自備資斧護送彼此以禮相待寓京之日按會禮部俾得備辦一切事欵往返第六欵第七欵

and give him necessary protection and respect on his way. On his arrival at the capital, he shall be furnished with a suitable residence prepared for him, and he shall defray his own expenses; and his entire suite shall not exceed twenty persons, exclusive of his Chinese attendants, none of whom shall be engaged in trade.

RESIDENCE OF U. S. MINISTER AT PEKING.

ART. VI.—If at any time his Majesty the Emperor of China shall, by treaty voluntarily made or for any other reason, permit the representative of any friendly nation to reside at his capital for a long or short time, then, without any further consultation or express permission, the representative of the United States in China shall have the same privilege.

MANNER OF OFFICIAL CORRESPONDENCE.

ART. VII.—The superior authorities of the United States and of China in corresponding together shall do so on terms of equality and

以文移往來不可煩瑣會面宜之處毋得藉端推辭常事或在行轅均須彼此酌定合合衆國大臣會晤或在公署大清國督撫與大

—

嗣後第八款互相徵索禮物恭有傷友誼至兩國均不得用稟呈字樣均不得欺藐不得陳字樣若平民稟報官憲仍用照會字樣申報大憲用申與中國地方官公文往來亦用照會字樣領事等官亦

之禮用照會字樣會晤中國大臣公文往來應照平行

in form of mutual communication *(cháu hwui)*. The consuls and the local officers, civil and military, in corresponding together, shall likewise employ the style and form of mutual communication *(cháu hwui)*. When inferior officers of the one government address superior officers of the other, they shall do so in the style and form of memorial *(shin chin)*. Private individuals in addressing superior officers shall employ the style of petition *(pin ching)*. In no case shall any terms or style be used or suffered which shall be offensive or disrespectful to either party. And it is agreed that no presents, under any pretext or form whatever, shall ever be demanded of the United States by China, or of China by the United States.

PERSONAL OFFICIAL INTERVIEWS.

ART. VIII.—In all future personal intercourse between the representative of the United States of America and the governors-general or governors, the interviews shall be had at the official residence of the said officers, or at their temporary residence, or at the residence of the representative of the United States of America, whichever may be agreed upon between them; nor shall they make any pretext for declining these interviews. Current matters shall be discussed by correspondence, so as not to give the trouble of a personal meeting.

一

辦船追捕盜賊交地方官訊究懲
大洋等處應准　大合衆國官
雖未毀壞而亦被劫　被擄及在
合衆國船隻或因毀壞被劫或
官員自當襄助購辦遇有
汲取淡水或須修理等事中國
兩國和好之誼如有採買食物
中統領以平行禮儀相待以示
如有事故該地方大員當與船
或爲增廣才識近至沿海各處
海口遊奕巡查或爲保護貿易
大合衆國如有官船在通商
第九款

U. S. NATIONAL SHIPS VISITING PORTS IN CHINA.

ART. IX.—Whenever national vessels of the United States of America in cruising along the coast and among the ports opened for trade for the protection of the commerce of their country, or for the advancement of science, shall arrive at or near any of the ports of China, commanders of said ships and the superior local authorities of government shall, if it be necessary, hold intercourse on terms of equality and courtesy, in token of the friendly relations of their respective nations, and the said vessels shall enjoy all suitable facilities on the part of the Chinese government in procuring provisions or other supplies, and making necessary repairs. And the United States of America agree that in case of the shipwreck of any American vessel, and its being pillaged by pirates, or in case any American vessel shall be pillaged or captured by pirates on the seas adjacent to the coast, without being shipwrecked, the national vessels of the United States shall pursue the said pirates, and if captured, deliver them over for trial and punishment.

一

第十款 大合衆國領事及管理貿易等官在中華議定所開各港居住保護貿易者當與道台知府平行遇有與中華地方官交涉事件或公文往來或會晤面商務須兩得其平即所用一切字樣體制亦應均照平行如地方官及領事等官有侮慢欺藐各等情准其彼此將委曲情由申訴本國各大憲秉公查辦該領事等官亦不得率意任性致與中華官民動多牴牾嗣後遇領事等官派到港口大合衆國

RIGHTS OF U. S. CONSULS.

ART. X. The United States of America shall have the right to appoint consuls and other commercial agents for the protection of trade, to reside at such places in the dominions of China as shall be agreed to be opened; who shall hold official intercourse and correspondence with the local officers of the Chinese government, (a consul or a vice-consul in charge taking rank with an intendant of circuit or a prefect,) either personally or in writing, as occasion may require, on terms of equality and reciprocal respect. And the consuls and local officers shall employ the style of mutual communication. If the officers of either nation are disrespectfully treated or aggrieved in any way by the other authorities they have the right to make representation of the same to the superior officers of their respective governments, who shall see that full inquiry and strict justice shall be had in the premises. And the said consuls and agents shall carefully avoid all acts of offense to the officers and people of China. On the arrival of a consul duly accredited at any port in China, it shall be the duty of the minister of the United States to notify the same to the go-

等案華民歸中國官按律治罪
與大合衆國人有爭鬬詞訟
將匪徒查拿按律重辦倘華民
官立當派撥兵役彈壓驅逐並
燬侵害一經領事官報明地方
被內地不法匪徒逞兇恐嚇焚
辱騷擾等事倘其屋宇產業有
務使身家一切安全不使受欺
和好友愛地方官必時加保護
貿易辦事者當與中國人一體
一大合衆國民人在中華安分

第十一欵

優禮欵接致可行其職守之事
大臣即行照知該省督撫當以

vernor-general of the province where such port is, who shall forthwith recognize the said consul, and grant him authority to act.

PROTECTION TO AMERICANS. ARRESTS.

Art. XI.—All citizens of the United States of America in China, peaceably attending to their affairs, being placed on a common footing of amity and goodwill with subjects of China, shall receive and enjoy for themselves and everything appertaining to them, the protection of the local authorities of government, who shall defend them from all insult or injury of any sort. If their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the consul, shall immediately dispatch a military force to disperse the rioters, apprehend the guilty individuals, and punish them with the utmost rigor of the law. Subjects of China guilty of any criminal act towards citizens of the United States shall be punished by the Chinese authorities according to the laws of China; and citizens of the United States, either on shore or in any merchant vessel, who may insult, trouble, or wound

關方向照例稅契用印外地方官
民不得抬價勒如無礙民居不
衆國人與內民公平議定租息內
館禮拜堂及殯葬之處聽大合
民房或租地自行建樓並設立醫
貿易或久居或暫住均准其租賃

第十二款

大合衆國官均無不可
大合衆國人以備質訊或由本地方官
事等官按本國例懲辦至捉拏或由
損害非禮不合一切情事應歸領
與華民欺侮騷擾毀壞物件殴傷
人
無論在岸上海面

the persons or injure the property of Chinese, or commit any other improper act in China, shall be punished only by the consul or other public functionary thereto authorized, according to the laws of the United States. Arrests in order to trial may be made by either the Chinese or the United States authorites.

RENTING HOUSES, TRAVEL, AND TRADE NEAR PORTS.

ART. XII.—Citizens of the United States, residing or sojourning at any of the ports open to foreign commerce, shall be permitted to rent houses and places of business, or hire sites on which they can themselves build houses or hospitals, churches and cemeteries. The parties interested can fix the rent by mutual and equitable agreement; the proprietors shall not demand an exorbitant price, nor shall the local authorities interfere, unless there be some objections offered on the part of the inhabitants respecting the place. The legal fees to the officers for applying their seal shall be paid. The citizens of the

一

俾得駛至最近港口修理並准
即應設法拯救保護並加撫邮
等害者該處地方官一經查知
遭風觸礁擱淺遇盜致有損壞
大合衆國船隻在中國洋面
第十三款

私行貿易以期永久彼此相安
行走不准遠赴內地鄉村市鎮
所商民水手人等止准在近地
其大合衆國人泊船寄居處
掘中國地方官嚴拿照例治罪
公允倘墳墓或被中國民人毀
强租硬占務須各出情願以昭
不得阻止
大合衆國人勿許

United States shall not unreasonably insist on particular spots, but each party shall conduct with justice and moderation. Any desecration of the cemeteries by natives of China shall be severely punished according to law. At the places where the ships of the United States anchor, or their citizens reside, the merchants, seamen, or others can freely pass and repass in the immediate neighborhood; but, in order to the preservation of the public peace, they shall not go into the country to the villages and marts to sell their goods unlawfully, in fraud of the revenue.

SHIPWRECKS. PROPERTY SAVED TO BE RESTORED. PIRATES.

ART. XIII.—If any vessel of the United States be wrecked or stranded on the coast of China, and be subjected to plunder or other damage, the proper officers of the government, on receiving information of the fact, shall immediately adopt measures for its relief and security; the persons on board shall receive friendly treatment, and be enabled to repair at once to the nearest port, and shall enjoy all facilities for obtaining supplies of provisions and water. If the mer-

眷赴廣東之廣州潮州福建之
　　一
　大合衆國民人嗣後均准挈
第十四款
行治罪將該員家產查抄抵償
染一經證明行文大憲奏明嚴
賠償貨款但若地方官通盜沾
緝獲或起贓不全不得令中國
中國地廣人稠萬一正盜不能
事官俱可但不得冒開失單至
贓無論多寡或交本人或交領
當嚴拿賊盜照例治罪起獲原
著地方文武員弁一經聞報即
有在中國所轄內洋被盜搶刼
其採買糧食汲取淡水倘商船

chant vessels of the United States, while within the waters over which the Chinese government exercises jurisdiction, be plundered by robbers or pirates, then the Chinese local authorities, civil and military, on receiving information thereof, shall arrest the said robbers or pirates, and punish them according to law, and shall cause all the property which can be recovered to be restored to the owners or placed in the hands of the consul. If by reason of the extent of territory and numerous population of China, it shall in any case happen that the robbers cannot be apprehended, and the property only in part recovered, the Chinese government shall not make indemnity for the goods lost; but if it shall be proved that the local authorities have been in collusion with the robbers, the same shall be communicated to the superior authorities for memorializing the Throne, and these officers shall be severely punished, and their property be confiscated to repay the losses.

SEVEN OPEN PORTS FOR AMERICAN TRADE.

ART. XIV.—The citizens of the United States are permitted to frequent the ports and cities of Canton and Cháu-chau or Swatau, in

者隻冒　大合衆國自應設法禁止
官民均不得稍有袒護若別國船隻
方官自行辦理治罪大合衆國地
項違禁貨物至中國者聽中國帶各
國入官其有走私漏稅或攜帶公歸
禁令者應將船隻貨物充公歸中
開各港私行違法貿易如有犯此
該船隻不得駛赴沿海口岸及未
物於以上所列各港互相往來但
在彼居住貿易任其船隻裝載貨
他國定立條約准開各港口市鎮
之上海並嗣後與大合衆國或
厦門福州臺灣浙江之甯波江蘇

the province of Kwangtung; Amoy, Fuhchau, and Taiwan in Formosa, in the province of Fuhkien; Ningpo in the province of Chehkiang; and Shanghai in the province of Kiangsu; and any other port or place hereafter by treaty with other powers, or with the United States, opened to commerce; and to reside with their families and trade there, and to proceed at pleasure with their vessels and merchandise from any of these ports to any other of them. But said vessels shall not carry on a clandestine and fraudulent trade at other ports of China not declared to be legal, or along the coasts thereof; and any vessel under the American flag violating this provision shall, with her cargo, be subject to confiscation to the Chinese government; and any citizen of the United States who shall trade in any contraband article of merchandise shall be subject to be dealt with by the Chinese government, without being entitled to any countenance or protection from that of the United States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations as a cover for the violation of the laws of the empire.

報海關即按牌上所載噸數輸納
時必將船牌等件呈交領事官轉
一大合衆國船隻進通商各港口
第十六欵
理
必須照與中華至好之國一律辦
均同因大合衆國人所納之稅
別國按條約有何更改即應一體
粘附在望厦所立條約例册除是
意販運往來買賣所納稅餉惟照
之貨外其餘各項貨物俱准其任
除中國例禁不准攜帶進口出口
一大合衆國民人在各港貿易者
第十五欵

DUTIES TO BE PAID.

Art. XV.—At each of the ports open to commerce, citizens of the United States shall be permitted to import from abroad, and sell, purchase, and export all merchandise of which the importation or exportation is not prohibited by the laws of the empire. The tariff of duties to be paid by citizens of the United States, on the export and import of goods from and into China, shall be the same as was agreed upon at the treaty of Wánghiá, except so far as it may be modified by treaties with other nations; it being expressly agreed that citizens of the United States shall never pay higher duties than those paid by the most favored nation.

TONNAGE DUTIES, BUOYS, LIGHT-SHIPS.

Art. XVI.—Tonnage duties shall be paid on every merchant vessel belonging to the United States entering either of the open ports at the rate of four mace per ton of forty cubic feet, if she be over one hundred and fifty tons burden; and one mace per ton of forty cubic feet, if she be of the burden of one hundred and fifty tons or under,

一大合衆國船隻進口准其僱用引

第十七款

官會同領事官酌量辦理各海口地方

建造塔表亮樓由通商立浮桿亮船

不輸船鈔以免重征設止納貨稅

關查照俟該船進別口時文別口海

之處在紅牌上註明並行將鈔已完納

載者領事官報明海關將鈔完納

將空船或未滿載之船駛赴別港免

銷復載往別口出售或因無回貨須

錢凡船隻曾在本港納鈔因貨未全

錢不及一百五十噸以上者每噸納銀四

在一百五十噸以上者每噸納銀一

船鈔每噸以方停四十尺爲準凡

according to the tonnage specified in the register; which, with her other papers, shall, on her arrival, be lodged with the consul, who shall report the same to the commissioner of customs. And if any vessel, having paid tonnage duty at one port, shall go to any other port to complete the disposal of her cargo, or, being in ballast, to purchase an entire or fill up an incomplete cargo, the consul shall report the same to the commissioner of customs, who shall note on the port-clearance that the tonnage duties have been paid, and report the circumstances to the collectors at the other custom-houses; in which case, the said vessel shall only pay duty on her cargo, and not be charged with tonnage duty a second time. The collectors of customs at the open ports shall consult with the consuls about the erection of beacons or light-houses, and where buoys and light-ships should be placed.

HIRING PILOTS, LABORERS, BOATS, &c.

ART. XVII.—Citizens of the United States shall be allowed to

辦民等自行定議或由領事等官酌帶進俟正項稅欵全完仍令帶水手

用內地艇隻其工價若干由該商僱

延請通事司書及必須之人並僱

出並准僱覓厮役買辦工匠水

水

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第十八欵

海商船或自僱艇隻均聽其便倘本

大關酌派妥役隨船管押或搭坐

大合衆國船隻一經進口即由

分離船逃走至內地避匿者一經

領事官知照中國地方官即派役

訪查拏送領事等官治罪若有中

engage pilots to take their vessels into port, and when the lawful duties have all been paid, take them out of port. It shall be lawful for them to hire at pleasure, servants, compradores, linguists, writers, laborers, seamen, and persons for whatever necessary service, with passage or cargo-boats, for a reasonable compensation, to be agreed upon by the parties or determined by the consul.

DESERTERS AND CRIMINALS TRIED BY THEIR OWN OFFICERS.

ART. XVIII.—Whenever merchant vessels of the United States shall enter a port, the collector of customs shall, if he see fit, appoint custom-house officers to guard said vessels, who may live on board the ship or their own boats, at their convenience. The local authorities of the Chinese government shall cause to be apprehended all mutineers or deserters from on board the vessels of the United States in China on being informed by the consul, and will deliver them up to the consuls or other officers for punishment. And if criminals, subjects of

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官收存該領事即將船名人數及
船牌貨單等件呈遞本國領事等
貨主或代辦商人限二日之內將
大合衆國商船進口或船主或

第十九欵

有偏徇致令衆心不服兩國官員均應執法嚴辦不得稍事輕用火器傷人致釀鬬殺重案時稽查約束倘兩國人有倚强滋事商民水手人等均歸領事等官隨均不得稍有庇匿至大合衆國查出即行文領事等官捉拏送回寓館及商船潛匿者中國地方官將國犯法民人逃至大合衆國

China, take refuge in the houses or on board the vessels of citizens of the United States, they shall not be harbored or concealed, but shall be delivered up to justice on due requisition by the Chinese local officers, addressed to those of the United States. But merchants, seamen, and other citizens of the United States shall be under the superintendence of the appropriate officers of their government. If individuals of either nation commit acts of violence or disorder, use arms to the injury of others, or create disturbances endangering life, the officers of the two governments will exert themselves to enforce order and to maintain the public peace, by doing impartial justice in the premises.

RULES ABOUT CARGO AND REPORTING SHIPS.

ART. XIX.—Whenever a merchant vessel belonging to the United States shall cast anchor in either of the said ports, the supercargo, master, or consignee, shall, within forty-eight hours, deposit the ship's papers in the hands of the consul or person charged with his functions,

即納倘須輸納船鈔遇有領事等官
須進口貨船已逾二日之限官
輸納倘到別口發售不征再行照例輸
船鈔亦不收稅船欲出口
日之內即行出口
不均俟留停往他
得俟停往他
均俟留停往他
得俟停往他
售他往者限二日之內即行出口
賣往倘有進口並開艙行
未起之貨均准其載往別口
起分之貨輸納稅
或有商船進口止起一分貨物入官
有商船進口止起一分貨物入官
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who shall cause to be communicated to the superintendent of customs a true report of the name and tonnage of such vessel, the number of her crew, and the nature of her cargo, which being done, he shall give a permit for her discharge. And the master, supercargo, or consignee, if he proceed to discharge the cargo without such permit, shall incur a fine of five hundred dollars, and the goods so discharged without permit shall be subject to forfeiture to the Chinese government. But if a master of any vessel in port desire to discharge a part only of the cargo, it shall be lawful for him to do so, paying duty on such part only, and to proceed with the remainder to any other ports. Or if the master so desire, he may, within forty-eight hours after the arrival of the vessel, but not later, decide to depart without breaking bulk; in which case he shall not be subject to pay tonnage or other duties or charges until, on his arrival at another port, he shall proceed to discharge cargo, when he shall pay the duties on vessel and cargo, according to law. And the tonnage duties shall be held due after the expiration of the said forty-eight hours. In case of the absence of the consul or person charged with his functions, the captain or supercargo

第二十款

海關會商酌奪若稟報稽遲即不
于即日內稟報領事官俾得通知該商
齊致有辯論不能了結者限多寡不
或因議價高下不等除皮之貨
按例征稅若內有估價定稅
人等眼同秉公將貨物驗明以便
派官役與該船主貨主或代辦商
官由領事等官轉報海關屆期委
均將起貨下貨日期呈報領事等
大合衆國商船販貨進口出口
巡赴海關呈明設法妥辦
商人託友國領事代爲料理否則
不在港內應准
大合衆國船主

of the vessel may have recourse to the consul of a friendly power; or, if he please, directly to the superintendent of customs, who shall do all that is required to conduct the ship's business.

EXAMINATION OF, OR DISPUTES ABOUT, CARGO.

ART. XX.—The superintendent of customs, in order to the collection of the proper duties, shall, on application made to him through the consul, appoint suitable officers, who shall proceed in the presence of the captain, supercargo, or consignee, to make a just and fair examination of all goods in the act of being discharged for importation, or laden for exportation, on board any merchant vessel of the United States. And if disputes occur in regard to the value of goods subject to ad-valorem duty, or in regard to the amount of tare, and the same cannot be satisfactorily arranged by the parties, the question may within twenty-four hours, and not afterwards, be referred to the said consul to adjust with the superintendent of customs.

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爲准理第二十一款

大合衆國民人運貨進口既經納清稅飭倘有欲將已卸之貨運往別口售賣者稟明領事官轉報海關檢查貨稅底簿相符委員驗明實係原包原貨並無拆動抽換情弊即將某貨若干照發該商收執一面行文別口海關查照俟該船進口查驗符合即准開艙出售免其重納稅飭若有影射夾帶情事經海關查出罰貨入官如大合衆國

IMPORTS SENT FROM ONE PORT TO ANOTHER.

Art. XXI.—Citizens of the United States, who may have imported merchandise into any of the free ports of China, and paid the duty thereon, if they desire to re-export the same in part or in whole to any other of the said ports, shall be entitled to make application through their consul, to the superintendent of customs, who, in order to prevent fraud on the revenue, shall cause examination to be made by suitable officers to see that the duties paid on such goods as are entered on the custom-house books, correspond with the representation made, and that the goods remain with their original marks unchanged, and shall then make a memorandum in the port-clearance, of the goods and the amount of duties paid on the same, and deliver the same to the merchant, and shall also certify the facts to the officers of customs of the other ports; all which being done, on the arrival in port of the vessel in which the goods are laden, and everything being found on examination there to correspond, she shall be permitted to break bulk and land the said goods, without being subject to the payment of any additional duty thereon. But if, on such examination,

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當惟領事官是問
官先行發還船牌者所欠稅鈔
均無不可倘有未經完稅領事
以紋銀或以洋銀按時價折交
有稅銀由中國設銀號代納或
後領事官方給還船牌等件所
稅鈔全完由海關發給紅牌統
出口貨物於下貨時完稅統俟
船鈔進口貨物於起貨時完稅
大合衆國船隻進口後方納稅

第二十二款

口者若並未起卸洋穀亦准
船隻運載外洋各港口出

the superintendent of customs shall detect any fraud on the revenue in the case, then the goods shall be subject to forfeiture and confiscation to the Chinese government. Foreign grain or rice brought into any port of China in a ship of the United States, and not landed, may be re-exported without hindrance.

PAYMENT OF DUTIES. CONSUL LIABLE.

ART. XXII.—The tonnage duty on vessels of the United States shall be paid on their being admitted to entry. Duties of import shall be paid on the discharge of the goods, and duties of export on the lading of the same. When all such duties shall have been paid, and not before, the collector of customs shall give a port-clearance, and the consul shall return the ship's papers. The duties shall be paid to the shroffs authorized by the Chinese government to receive the same. Duties shall be paid and received either in sycee silver or in foreign money, at the rate of the day. If the consul permits a ship to leave the port before the duties and tonnage dues are paid, he shall be held responsible therefor.

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入官行剎運者卽將所剎之貨歸中國方准剎運倘不稟明俟驗批准輒
貨物必須轉報海關委員查驗確當領事官照知地方官立卽設法查究嚴追
大合衆國船隻停泊口內如有呈明
第二十三款

一
中國人有該欠大合衆國人債項者准其按律控追一經領事官給領倘大合衆國人有該欠華民者亦准由領事官知會討取或
直向領事官控追俱可但兩國官
第二十四款

PERMITS GRANTED FOR TRANSHIPMENT OF GOODS.

ART. XXIII.—When goods on board any merchant vessel of the United States in port require to be transhipped to another vessel, application shall be made to the consul, who shall certify what is the occasion therefor to the superintendent of customs, who may appoint officers to examine into the facts and permit the transhipment. And if any goods be transhipped without written permits, they shall be subject to be forfeited to the Chinese government.

MANNER OF PROSECUTION OF DEBTS.

ART. XXIV.—Where there are debts due by subjects of China to citizens of the United States, the latter may seek redress in law; and on suitable representations being made to the local authorities, through the consul, they will cause due examination in the premises, and take proper steps to compel satisfaction. And if citizens of the United States be indebted to subjects of China, the latter may seek redress

大合衆國不准來各口交易其國不和中國止應禁阻不和之來貿易倘日後另有別國與中好各處通商港口聽其船隻往

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大合衆國現與中國訂明和

第二十六款

其採買中國各項書籍不得稍有阻撓陷害等情並准何等之人中國地方官民等均

一

准大合衆國官民延請中國

第二十五款

各方士民人等教習各方語音並幫辦文墨事件不論所請係

員均不保償

by representation through the consul, or by suit in the consular court. But neither government will hold itself responsible for such debts.

FACILITIES FOR LEARNING THE CHINESE LANGUAGE.

ART. XXV.—It shall be lawful for the officers or citizens of the United States to employ scholars and people of any part of China, without distinction of persons, to teach any of the languages of the empire, and to assist in literary labors; and the persons so employed shall not for that cause be subject to any injury on the part either of the government or of individuals; and it shall in like manner be lawful for citizens of the United States to purchase all manner of books in China.

RIGHTS OF AMERICAN NEUTRALS IN WAR.

ART. XXVI.—Relations of peace and amity between the United States and China being established by this treaty, and the vessels of the United States being admitted to trade freely to and from the ports of China open to foreign commerce, it is further agreed that, in case at any time hereafter China shall be at war with any foreign nation

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大合衆國民人在中國各港口自因財產涉訟由本國領事官等訊明辦理若大合衆國民人在中國與別國貿易之人因事爭論者應聽兩造查照各出充公入官

第二十七欵

貿易倘有犯此禁令聽中國查貿別國一兵進口及聽受別國賄囑換給旗號代爲運貨入口帶別國一兵進口及聽受別國港惟大合衆國商船不得私認明大合衆國旗號便准入其國之貨物前來各口中國應衆國人自往別國貿易或販運

whatever, and should for that cause exclude such nation from entering her ports, still the vessels of the United States shall not the less continue to pursue their commerce in freedom and security, and to transport goods to and from the ports of the belligerent powers, full respect being paid to the neutrality of the flag of the United States, provided that the said flag shall not protect vessels engaged in the transportation of officers or soldiers in the enemy's service, nor shall said flag be fraudulently used to enable the enemy's ships with their cargoes, to enter the ports of China; but all such vessels so offending shall be subject to forfeiture and confiscation to the Chinese government.

CHINESE OFFICERS HAVE NO JURISDICTION IN DISPUTES.

ART. XXVII.—All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction and regulated by the authorities of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government, shall be regulated by the treaties existing between

人到堂代傳以免言語不通致受
議察奪更不得索取規費並准請
平調處者即須兩國官員查明公
大合衆國人因事相爭不能以和
官稟呈查辦倘遇有中國人與
其一面稟地方官一面到領事等
因有要事向領事等官辯訴者准
即爲轉行地方官查辦中國商民
查明稟內字句明順事在情理者
國地方官辯訴先稟明領事等官
大合衆國民人因有要事向中
第二十八欵
得過問
本國所立條約辦理中國官員不

the United States and such governments, respectively, without interference on the part of China.

MODE OF U. S. CITIZENS ADDRESSING CHINESE OFFICERS.

ART. XXVIII.—If citizens of the United States have special occasion to address any communication to the Chinese local officers of government, they shall submit the same to their consul or other officer, to determine if the language be proper and respectful, and the matter just and right, in which event he shall transmit the same to the appropriate authorities for their consideration and action in the premises. If subjects of China have occasion to address the consul of the United States, they may address him directly, at the same time they inform their own officers, representing the case for his consideration and action in the premises; and if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations, acting in conjunction. The extortion of illegal fees is expressly

或其商民無論關涉船隻海面有何惠政恩典利益施及他國現經兩國議定嗣後大清朝

第三十款

優

教規安分傳習者他人毋得騷保護不可欺侮凌虐凡有遵照分傳教習教之人當一體矜卹者亦如是施於人嗣後所有安

天主教原爲勸人行善凡欲人施諸已

耶穌基督聖教又名

第二十九款

委曲

prohibited. Any peaceable persons are allowed to enter the court in order to interpret, lest injustice be done.

TOLERATION OF THE CHRISTIAN RELIGION.

ART. XXIX.—The principles of the Christian religion, as professed by the Protestant and Roman Catholic churches, are recognized as teaching men to do good, and to do to others as they would have others do to them. Hereafter, those who quietly profess and teach these doctrines shall not be harrassed or persecuted on account of their faith. Any person, whether citizen of the United States or Chinese convert, who, according to these tenets peaceably teach and practice the principles of Christianity, shall in no case be interfered with or molested.

AMERICAN CITIZENS TO ENJOY THE SAME PRIVILEGES AS OTHERS.

ART. XXX.—The contracting parties hereby agree that, should at any time the Tá Tsing Empire grant to any nation, or the merchants or citizens of any nation, any right, privilege or favor, connected either

欽差辦理通商事務便宜行事全權大臣
東閣大學士總理刑部事桂良
大清國

議允 批准 屆期互換 須至和約者
大伯理璽天德 既得選舉國會紳耆大臣
大合衆國

大皇帝立賜 批准 並限於一年之內由
大清國

以上各款條約應由
體均沾
無者亦當立准 大合衆國官民一
並其商民從來未沾抑爲此條約所
通商貿易政事交往等事情爲該國

with navigation, commerce, political, or other intercourse, which is not conferred by this treaty, such right, privilege, and favor shall at once freely enure to the benefit of the United States, its public officers, merchants, and citizens.

The present treaty of peace, amity, and commerce shall be ratified by the President of the United States, by and with the advice and consent of the Senate, within one year, or sooner if possible, and by the august Sovereign of the Tá Tsing Empire forthwith; and the ratifications shall be exchanged within one year from the date of the signatures thereof.

In faith whereof, we, the respective plenipotentiaries of the United States of America and of the Tá Tsing Empire, as aforesaid, have signed and sealed these presents.

Done at Tientsin, this eighteenth day of June, in the year of our

大清咸豐八年五月初八日
大合衆國立國後八十二年六月十八日
紀年一千八百五十八年

欽差行事全權大臣列衞廉駐劄中華便宜
大合衆國
欽差宜行事全權大臣旗漢軍都統便花沙納
吏部尚書鑲藍

Lord one thousand eight hundred and fifty-eight, and the Independence of the United States of America the eighty-second, and in the eighth year of Hienfung, fifth month, and eighth day.

WILLIAM B. REED. [L. S.]

KWEILIANG. (In Chinese characters.) [L. S.]

HWASHANA. (do.) [L. S.]

SUPPLEMENTARY TREATY BETWEEN THE UNITED STATES OF AMERICA AND CHINA.

Whereas a Treaty of Peace, Amity, and Commerce between the Tá Tsing Empire and the United States of America was concluded at Tientsin, and signed at the temple of Hai-kwang on the eighteenth day of June, in the year of our Lord one thousand eight hundred and fifty-eight, corresponding with the eighth day of the fifth moon of the eighth year of Hienfung, which said treaty was duly ratified by his Majesty, the Emperor of China, on the third day of July following; and which has now been transmitted for ratification by the President of the United States with the advice and consent of the Senate; and

Whereas, in the said treaty, it was provided among other things, that the tariff of duties to be paid by citizens of the United States on the export and import of goods from and into China shall be the same as was agreed upon at the treaty of Wánghiá, except so far as it may be modified by treaties with other nations, it being expressly agreed that citizens of the United States shall never pay higher duties than those paid by the most favored nations; and

Whereas, since the signature of the said treaty, material modifications of the said tariff and other matters of detail connected with and having relation to the said treaty, having been made under mutual discussions by commissioners appointed to that end by the Plenipotentiaries of China, Great Britian and France, to which the assent of the United States of America is desired and now freely given, it has been determined to record such assent and agreement in the form of a Supplementary Treaty, to be as binding and of the same efficacy as though they had been inserted in the original treaty.

The Tariff and Regulations of Trade and Transit hereunto attached, bearing the seals of the respective Plenipotentiaries of the United States of America and the Tá Tsing Empire, will henceforward and until duly altered under the provisions of treaties, be in force at the ports and places open to commerce.

In faith whereof, the respective Plenipotentiaries of the United States of America and of the Tá Tsing Empire: to say, on the part of the United States, William B. Reed, Envoy Extraordinary and Minister Plenipotentiary: and on the part of the Tá Tsing Empire,

KWEILIANG, a member of the Privy Council, Captain-General of the plain white banner division of the Manchu Bannermen, and Superintendent of the Board of Punishments; and HWASHANA, classical reader at Banquets, President of the Board of Civil Office, Captain-General of the bordered blue banner division of the Chinese Bannermen, both of them Plenipotentiaries; with HO KWEI-TSING, Governor-General of the Two Kiang provinces, President of the Board of War and Guardian of the heir-apparent; MINGSHEN, President of the Ordnance Office of the Imperial household, with the insignia of the second grade; and TWAN, a titular President of the fifth grade, member of the establishment of the General Council, and one of the junior Under-Secretaries of the Board of Punishments; all of them special commissioners deputed for the purpose, have signed and sealed these presents.

Done at Shanghai, this eighth day of November, in the year of our Lord, one thousand eight hundred and fifty-eight, and of the Independence of the United States, the eighty-third; and in the eighth year of Hienfung, the tenth month, and third day.

WILLIAM B. REED. L. S.

Seal of the Chinese Commissioners.	Signatures of Five Chinese Commissioners.

TARIFF OF DUTIES ON THE AMERICAN TRADE WITH CHINA.

I.—TARIFF ON IMPORTS.

		T. m. c. c.
Agar-agar, ...	per 100 catties	0 1 5 0
Asafœtida, ...	„ „	0 6 5 0
Beeswax, Yellow, ...	„ „	1 0 0 0
Betel-nut, ...	„ „	0 1 5 0
„ Husk, ...	„ „	0 0 7 5
Bicho-de-mar, Black, ...	„ „	1 5 0 0
„ White, ...	„ „	0 3 5 0
Birdnests, 1st quality, ...	„ catty	0 5 5 0
„ 2d „	„ „	0 4 5 0
„ 3d „ or uncleaned,...	„ „	0 1 5 0
Buttons, Brass, ...	„ gross	0 0 5 5
Camphor, Baroos, clean, ...	„ catty	1 3 0 0
„ „ refuse, ...	„ „	0 7 2 0

			T. m. c.
Canvas and Cotton Duck not exceeding 50 yards long, ...	„	piece	0 4 0
Cardamoms, Superior, ...	„	100 catties	1 0 0
„ Inferior, or Grains of Paradise,	„	„	0 5 0
Cinnamon, ...	„	„	1 5 0
Clocks, ...	5 per cent. *ad valorem*		
Cloves, ...	per	100 catties	0 5 0
„ Mother, ...	„	„	0 1 8
Coal, Foreign, ...	„	ton	0 0 5
Cochineal, ...	„	100 catties	5 0 0
Coral, ...	„	catty	0 1 0
Cordage, Manila, ...	„	100 catties	0 3 5
Cornelians, ...	„	100 stones	0 3 0
„ Beads, ...	„	100 catties	7 0 0
Cotton, Raw, ...	„	„	0 3 5
Cotton Piece Goods,—Gray, White, Plain, and Twilled, exceeding 34 in. wide, and not exceeding 40 yds. long,...	„	piece	0 0 8 0
„ Piece Goods, exceeding 34 in. wide, and exceeding 40 yds. long, ...	„	every 10 yards	0 0 2 0
„ Piece Goods, Drills and Jeans, not exceeding 30in. wide, and not exceeding 40 yds. long, ...	„	piece	0 1 0 0
„ Piece Goods, not exceeding 30 in. wide, and not exceeding 30 yds. long, ...	„	„	0 0 7 5
„ Piece Goods, *T*-Cloths, not exceeding 34 in. wide, and not exceeding 48 yds. long, ...	„	„	0 0 8 0
„ Piece Goods, not exceeding 34 in. wide, and not exceeding 24 yds. long, ...	„	„	0 0 4 0
„ Dyed, Figured and Plain, not exceeding 36 in. wide, and not exceeding 40 yds. long, ...	„	„	0 1 5 0
„ Fancy, White Brocades and White Spotted Shirtings, not exceeding 36 in. wide, and not exceeding 40 yds. long, ...	„	„	0 1 0 0
„ Printed, Chintzes and Furnitures, not exceeding 31 in. wide, and not exceeding 30 yds. long,... ...	„	„	0 0 7 0
„ Cambrics, not exceeding 46 in. wide, and not exceeding 24 yds. long,...	„	„	0 0 7 0
„ Cambrics, not exceeding 46 in. wide, and not exceeding 12 yds.long, ...	„	„	0 0 3 5
„ Muslins, not exceeding 46 in. wide, and not exceeding 24 yds. long,	„	„	0 0 7 5
„ Muslins, not exceeding 46 in. wide, and not exceeding 12 yds. long, ...	„	„	0 0 3 5
„ Damasks, not exceeding 36 in. wide, and not exceeding 40 yds. long, ...	„	„	0 2 0 0
„ Dimities, or Quiltings, not exceeding 40 in. wide, and not exceeding 12 yds. long, ...	„	„	0 0 6 5
„ Ginghams, not exceeding 28 in. wide, and not exceeding 30 yds. long, ...	„	„	0 0 3 5
„ Handkerchiefs, not exeeeding 1 yd. square, ...	„	dozen	0 0 2 5
„ Fustians, not exceeding 35 yds. long,	„	piece	0 2 0 0
„ Velveteens, not exceeding 34 yds. long, ...	„	„	0 1 5 0

			T. m. c. c.
Cotton Thread, ...	per	100 catties	0 7 2 0
„ Yarn, ...	„	„	0 7 0 0
Cow Bezoar, Indian, ...	„	catty	1 5 0 0
Cutch, ...	„	100 catties	0 1 8 0
Elephants' Teeth, Whole, ...	„	„	4 0 0 0
„ „ Broken, ...	„	„	3 0 0 0
Feathers, Kingfisher's, Peacock's ...	„	hundred	0 4 0 0
Fishmaws, ...	„	100 catties	1 0 0 0
Fish-skins, ...	„	„	0 2 0 0
Flints, ...	„	„	0 0 3 0
Gambier, ...	„	„	0 1 5 0
Gamboge, ...	„	„	1 0 0 0
Ginseng, American, Crude, ...	„	„	6 0 0 0
„ „ Clarified, ...	„	„	8 0 0 0
Glass, Window, ...	„	box of 100 square ft.	0 1 5 0
Glue, ...	„	100 catties	0 1 5 0
Gold Thread, Real, ...	„	catty	1 6 0 0
„ „ Imitation, ...	„	„	0 0 3 0
Gum, Benjamin, ...	„	100 catties	0 6 0 0
„ „ Oil of, ...	„	„	0 6 0 0
„ Dragon's Blood, ...	„	„	0 4 5 0
„ Myrrh, ...	„	„	0 4 5 0
„ Olibanum, ...	„	„	0 4 5 0
Hides, Buffalo and Cow, ...	„	„	0 5 0 0
„ Rhinoceros, ...	„	„	0 4 2 0
Horns, Buffalo, ...	„	„	0 2 5 0
„ Deer, ...	„	„	0 2 5 0
„ Rhinoceros, ...	„	„	2 0 0 0
Indigo, Liquid, ...	„	„	0 1 8 0
Isinglass, ...	„	„	0 6 5 0
Lacquered Ware, ...	„	„	1 0 0 0
Leather, ...	„	„	0 4 2 0
Linen, fine, as Irish or Scotch, not exceeding 50 yds. long, ...	„	piece	0 5 0 0
„ coarse, as Linen and Cotton, or Silk and Linen mixtures, not exceeding 50 yds. long, ...	„	„	0 2 0 0
Lucraban Seed, ...	„	100 catties	0 0 3 5
Mace, ...	„	„	1 0 0 0
Mangrove Bark, ...	„	„	0 0 3 0
Metals,—Copper, manufactured, as in Sheets, Rods, Nails, ...	„	„	1 5 0 0
„ „ unmanufactured as in Slabs,	„	„	1 0 0 0
„ „ Yellow Metal, Sheathing, and Nails, ...	„	„	0 9 0 0
„ „ Japan, ...	„	„	0 6 0 0
„ Iron, manufactured, as in Sheets, Rods, Bars, Hoops, ...	„	„	0 1 2 5
„ „ unmanufactured as in Pigs,	„	„	0 0 7 5
„ „ Kentledge, ...	„	„	0 0 1 0
„ „ Wire, ...	„	„	0 2 5 0
„ Lead, in Pigs, ...	„	„	0 2 5 0
„ „ in Sheets, ...	„	„	0 5 5 0
„ Quicksilver, ...	„	„	2 0 0 0
„ Spelter, (saleable only under Regulation appended,)	„	„	0 2 5 0
„ Steel, ...	„	„	0 2 5 0
„ Tin, ...	„	„	1 2 5 0
„ Tin Plates, ...	„	„	0 4 0 0
Mother-o'-Pearl Shell, ...	„	„	0 2 0 0
Musical Boxes, ...	5 per cent. *ad valorem*		
Mussels, Dried,...	per	100 catties	0 2 0 0

		T. m. c c.
Nutmegs.	per 100 catties	2 5 0 0
Olives, Unpickled, Salted or Pickled, ...	„ „	0 1 8 0
Opium, ...	„ „	30 0 0 0
Pepper, Black, ...	„ „	0 3 6 0
„ White, ...	„ „	0 5 0 0
Prawns, Dried, ...	„ „	0 3 6 0
Putchuck, ...	„ „	0 6 0 0
Rattans, ...	„ „	0 1 5 0
Rose Maloes, ...	„ „	1 0 0 0
Salt Fish, ...	„ „	0 1 8 0
Saltpetre, (saleable only under Regulation appended), ...	„ „	0 5 0 0
Sandalwood, ...	„ „	0 4 0 0
Sapanwood, ...	„ „	0 1 0 0
Seahorse Teeth, ...	„ „	2 0 0 0
Sharks' Fins, Black, ...	„ „	0 5 0 0
„ „ White, ...	„ „	1 5 0 0
„ Skins, ...	„ hundred	2 0 0 0
Silver Thread, Real, ...	„ catty	1 3 0 0
„ „ Imitation, ...	„ „	0 0 3 0
Sinews, Buffalo and Deer, ...	„ 100 catties	0 5 5 0
Skins, Fox, large, ...	each	0 1 5 0
„ „ Small, ...	„	0 0 7 5
„ Marten, ...	„	0 1 5 0
„ Sea Otter, ...	„	1 5 0 0
„ Tiger and Leopard, ...	„	0 1 5 0
„ Beaver, ...	per hundred	5 0 0 0
„ Doe, Hare and Rabbit, ...	„ „	0 5 0 0
„ Squirrel, ...	„ „	0 5 0 0
„ Land Otter.	„ „	2 0 0 0
„ Racoon, ...	„ „	2 0 0 0
Smalts, ...	„ 100 catties	1 5 0 0
Snuff, Foreign, ...	„ „	7 2 0 0
Sticklac, ...	„ „	0 3 0 0
Stockfish, ...	„ „	0 5 0 0
Sulphur and Brimstone, (saleable only under Regulation appended.)	„ „	0 2 0 0
Telescopes, Spy and Opera Glasses, Looking Glasses and Mirrors, ...	5 per cent. *ad valorem.*	
Tigers' Bones, ...	per 100 catties	1 5 5 0
Timber, Masts and Spars, Hard-wood, not exceeding 40 ft., ...	each	4 0 0 0
„ Masts and Spars, Hard-wood, not exceeding 60 ft., ...	„	6 0 0 0
„ Masts and Spars, Hard-wood, exceeding 60 ft.,...	„	10 0 0 0
„ Masts and Spars, Soft-wood, not exceeding 40 ft., ...	„	2 0 0 0
„ Masts and Spars, Soft-wood, not exceeding 60 ft., ...	„	4 5 0 0
„ Masts and Spars, Soft-wood, exceeding 60 ft., ...	„	6 5 0 0
„ Beams, Hard-wood, not exceeding 26 ft. long, and under 12 in. square.	„	0 1 5 0
„ Planks, Hard-wood, not exceeding 24 ft. long, 12 in. wide, and 3 in. thick, ...	per hundred	3 5 0 0
„ Planks, Hard-wood, not exceeding 16 ft. long, 12 in. wide, and 3 in. thick, ...	„ „	2 0 0 0
„ Planks, Soft-wood, ...	„ 1000 square feet	0 7 0 0
„ „ Teak, ...	„ cubic foot	0 0 3 5

		T.	m.	c.	c.
Tinder, ...	per 100 catties	0	3	5	0
Tortoise Shell, ...	„ catty	0	2	5	0
„ „ Broken, ...	„ „	0	0	7	2
Umbrellas, ...	each	0	0	3	5
Velvets, not exceeding 34 yds. long, ...	per piece	0	1	8	0
Watches, ...	„ pair	1	0	0	0
„ émaillées à perles, ...	„ „	4	5	0	0
Wax, Japan, ...	„ 100 catties	0	6	5	0
Woods, Camagon, ...	„ „	0	0	3	0
„ Ebony, ...	„ „	0	1	5	0
„ Garroo, ...	„ „	2	0	0	0
„ Fragrant, ...	„ „	0	4	5	0
„ Kranjee, 35 feet long, 1 ft. 8 in. wide, and 1 foot thick, ...	„ each	0	8	0	0
„ Laka, ...	„ 100 catties	0	1	4	5
„ Red, ...	„ „	0	1	1	5
Woolen Manufactures, viz: Blankets, ...	„ pair	0	2	0	0
„ Broadcloth and Spanish Stripes, Habit and Medium Cloth, 51 *a* 64 in. wide, ...	„ chang	0	1	2	0
„ Long Ells, 31 in. wide, ...	„ „	0	0	4	5
„ Camlets, English, 31 in. wide, ...	„ „	0	0	5	0
„ „ Dutch, 33 in. wide, ...	„ „	0	1	0	0
„ „ Imitation & Bombazettes,	„ „	0	0	3	5
„ Cassimeers, Flannel & Narrow Cloth,	„ „	0	0	4	0
„ Lastings, 31 in. wide, ...	„ „	0	0	5	0
„ „ Imitation and Orleans, 34 in. wide, ...	„ „	0	0	3	5
„ Bunting, not exceeding 24 in. wide, and 40 yds. long, ...	„ piece	0	2	0	0
„ and Cotton Mixtures, viz: Lustres, Plain and Brocaded, not exceeding 31 yds. long, ...	„ „	0	2	0	0
„ Inferior Spanish Stripes, ...	„ chang	0	1	0	0
Woolen Yarn, ...	„ 100 catties	3	0	0	0

II.—TARIFF ON EXPORTS.

		T.	m.	c.	c.
Alum, ...	per 100 catties	0	0	4	5
„ Green or Copperas, ...	„ „	0	1	0	0
Aniseed Star, ...	„ „	0	5	0	0
„ Broken, ...	„ „	0	2	5	0
„ Oil, ...	„ „	5	0	0	0
Apricot Seeds, or Almonds, ...	„ „	0	4	5	0
Arsenic, ...	„ „	0	4	5	0
Artificial Flowers, ...	„ „	1	5	0	0
Bamboo Ware, ...	„ „	0	7	5	0
Bangles or Glass Armlets, ...	„ „	0	5	0	0
Beans and Peas, (except from Newchwang and Tangchow,)	„ „	0	0	6	0
Bean Cake, (except from Newchwang and Tangchow,)	„ „	0	0	3	5
Bone and Horn Ware, ...	„ „	1	5	0	0
Brass Buttons, ...	„ „	3	0	0	0
„ Foil, ...	„ „	1	5	0	0
„ Ware, ...	„ „	1	0	0	0
„ Wire, ...	„ „	1	1	5	0
Camphor, ...	„ „	0	7	5	0
Canes, ...	„ thousand	0	5	0	0
Cantharides, ...	„ 100 catties	2	0	0	0
Capoor Cutchery, ...	„ „	0	3	0	0

		T.	*m.*	*c.*	*c.*
Carpets and Druggets, ...	per hundred	3	5	0	0
Cassia Lignea,...	„ 100 catties	0	6	0	0
„ Buds, ...	„ „	0	8	0	0
„ Twigs, ...	„ „	0	1	5	0
„ Oil,...	„ „	9	0	0	0
Castor Oil, ...	„ „	0	2	0	0
Chestnuts,...	„ „	0	1	0	0
China Root, ...	„ „	0	1	3	0
Chinaware, Fine, ...	„ „	0	9	0	0
„ Coarse, ...	„ „	0	4	5	0
Cinnabar, ...	„ „	0	7	5	0
Clothing, Cotton, ...	„ „	1	5	0	0
„ Silk, ...	„ „	10	0	0	0
Coal, ...	„ „	0	0	4	0
Coir, ...	„ „	0	1	0	0
Copper Ore, ...	„ „	0	5	0	0
„ Sheating, Old, ...	„ „	0	5	0	0
„ and Pewter Ware, ...	„ „	1	1	5	0
Corals, False, ...	„ „	0	3	5	0
Cotton, Raw, ...	„ „	0	3	5	0
„ Rags, ...	„ „	0	0	4	5
Cow Bezoar, ...	„ catty	0	3	6	0
Crackers, Fireworks, ...	„ 100 catties	0	5	0	0
Cubebs, ...	„ „	1	5	0	0
Curiosities, Antiques, ...	5 per cent. *ad valorem.*				
Dates, Black, ...	per 100 catties	0	1	5	0
„ Red, ...	„ „	0	0	9	0
Dye, Green, ...	„ catty	0	8	0	0
Eggs, Preserved, ...	„ thousand	0	3	5	0
Fans, Feather,...	„ hundred	0	7	5	0
„ Paper, ...	„ „	0	0	4	5
„ Palm Leaf, trimmed, ...	„ thousand	0	3	6	0
„ „ „ untrimmed, ...	„ „	0	2	0	0
Felt Cuttings, ...	„ 100 catties	0	1	0	0
„ Caps,...	„ hundred	1	2	5	0
Fungus, or Agaric, ...	„ 100 catties	0	6	0	0
Galangal, ...	„ „	0	1	0	0
Garlic, ...	„ „	0	0	3	5
Ginseng, Native, ...	5 per cent. *ad valorem.*				
„ Corean or Japan, 1st quality, ...	per catty	0	5	0	0
„ „ „ 2d „ ...	„ „	0	3	5	0
Glass Beads, ...	„ 100 catties	0	5	0	0
„ or Vitrified Ware, ...	„ „	0	5	0	0
Grasscloth, Fine, ...	„ „	2	5	0	0
„ Coarse,...	„ „	0	7	5	0
Ground-nuts, ...	„ „	0	1	0	0
„ Cake, ...	„ „	0	0	3	0
Gypsum, Ground, or Plaster of Paris, ...	„ „	0	0	3	0
Hair, Camel's, ...	„ „	1	0	0	0
„ Goat's, ...	„ „	0	1	8	0
Hams, ...	„ „	0	5	5	0
Hartall, or Orpiment, ...	„ „	0	3	5	0
Hemp, ...	„ „	0	3	5	0
Honey, ...	„ „	0	9	0	0
Horns, Deer's, Young.	„ pair	0	9	0	0
„ „ Old, ...	„ 100 catties	1	3	5	0
India Ink,...	„ „	4	0	0	0
Indigo, Dry, ...	„ „	1	0	0	0
Ivory Ware, ...	„ catty	0	1	5	0
Joss-sticks, ...	„ 100 catties	0	2	0	0
Kittysols, or Paper Umbrellas, ...	„ hundred	0	5	0	0
Lacquered Ware, ...	„ „	1	0	0	0
Lamp-wicks, ...	„ 100 catties	0	6	0	0

		T. m. c. c.
Lead, Red, *(Minium)*	per 100 catties	0 3 5 0
„ White *(Ceruse)*, ...	„ „	0 3 5 0
„ Yellow *(Massicot)*, ...	„ „	0 3 5 0
Leather Articles, as Pouches, Purses, ...	„ „	1 5 0 0
„ Green,...	„ „	1 8 0 0
Lichees, ...	„ „	0 2 0 0
Lily Flowers, Dried, ...	„ „	0 2 7 0
„ Seeds or Lotus Nuts, ...	„ „	0 5 0 0
Liquorice, ...	„ „	0 1 3 5
Lung-ngan, ...	„ „	0 2 5 0
„ without the Stone, ...	„ „	0 3 5 0
Manure Cakes, or Poudrette, ...	„ „	0 0 9 0
Marble Slabs,...	„ „	0 2 0 0
Mats of all kinds, ...	„ hundred	0 2 0 0
Matting, ...	„ roll of 40 yds.	0 2 0 0
Melon Seeds, ...	„ 100 catties	0 1 0 0
Mother-o'-pearl Ware, ...	„ catty	0 1 0 0
Mushrooms, ...	„ 100 catties	1 5 0 0
Musk, ...	„ catty	0 9 0 0
Nankeen and Native Cotton Cloths, ...	„ 100 catties	1 5 0 0
Nutgalls, ...	„ „	0 5 0 0
Oil. as Bean, Tea, Wood, Cotton, & Hemp Seed,	„ „	0 3 0 0
Oiled Paper, ...	„ „	0 4 5 0
Olive Seed, ...	„ „	0 3 0 0
Oyster-shell, Sea-shells, ...	„ „	0 0 9 0
Paint. Green, ...	„ „	0 4 5 0
Palampores, or Cotton Bedquilts, ...	„ hundred	2 7 5 0
Paper, 1st quality, ...	„ 100 catties	0 7 0 0
„ 2d „	„ „	0 4 0 0
Pearls, False, ...	„ „	2 0 0 0
Peel, Orange, ...	„ „	0 3 0 0
„ Pumelo, 1st quality, ...	„ „	0 4 5 0
„ „ 2d	„ „	0 1 5 0
Peppermint Leaf, ...	„ „	0 1 0 0
„ Oil, ...	„ „	3 5 0 0
Pictures and Paintings, ...	each „	0 1 0 0
„ on Pith or Rice Paper, ...	per hundred	0 1 0 0
Pottery, Earthenware, ...	„ 100 catties	0 0 5 0
Preserves, Comfits, and Sweatmeats,... ...	„ „	0 5 0 0
Rattans, Split,...	„ „	0 2 5 0
Rattan Ware, ...	„ „	0 3 0 0
Rhubarb, ...	„ „	1 2 5 0
Rice or Paddy, Wheat, Millet, and other Grains,	„ „	0 1 0 0
Rugs of Hair or Skin, ...	each „	0 0 9 0
Samshoo, ...	per 100 catties	0 1 5 0
Sandalwood Ware,...	„ catty	0 1 0 0
Seaweed, ...	„ 100 catties	0 1 5 0
Sesamum Seed, ...	„ „	0 1 3 5
Shoes and Boots, Leather or Satin, ...	„ 100 pairs	3 0 0 0
„ Straw, ...	„ „	0 1 8 0
Silk, Raw and Thrown,...	„ 100 catties	10 0 0 0
„ Yellow, from Szechuen, ...	„ „	7 0 0 0
„ Reeled from dupions, ...	„ „	5 0 0 0
„ Wild Raw, ...	„ „	2 5 0 0
„ Refuse, ...	„ „	1 0 0 0
„ Cocoons, ...	„ „	3 0 0 0
„ Floss, Canton, ...	„ „	4 3
„ „ from other Provinces, ...	„ „	10
„ Ribbons and Thread, ...	„ „	
„ Piece Goods,—Pongees, Shawls, Scarfs, Crape, Satin, Gauze, Velvet, and Embroidered Goods, ...	„ „	
„ „ „ Szechuen and Shantung,	„ „	

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		T. m. c. c.
Silk Tassels, ...	per 100 catties	10 0 0 0
„ Caps, ...	„ hundred	0 9 0 0
„ and Cotton Mixtures,...	„ 100 catties	5 5 0 0
Silver and Gold Ware, ...	„ „	10 0 0 0
Snuff, ...	„ „	0 8 0 0
Soy, ...	„ „	0 4 0 0
Straw Braid, ...	„ „	0 7 0 0
Sugar, Brown,...	„ „	0 1 2 0
„ White, ...	„ „	0 2 0 0
„ Candy,...	„ „	0 2 5 0
Tallow, Animal, ...	„ „	0 2 0 0
„ Vegetable, ...	„ „	0 3 0 0
Tea, ...	„ „	2 5 0 0
Tin Foil, ...	„ „	1 2 5 0
Tobacco, prepared,...	„ „	0 4 5 0
„ Leaf,...	„ „	0 1 5 0
Tortoise-shell Ware, ...	„ catty	0 2 0 0
Trunks, Leather, ...	„ 100 catties	1 5 0 0
Turmeric,...	„ „	0 1 0 0
Twine, Hemp, Canton, ...	„ „	0 1 5 0
„ „ Soochow, ...	„ „	0 5 0 0
Turnips, Salted, ...	„ „	0 1 8 0
Varnish, or Crude Lacquer, ...	„ „	0 5 0 0
Vermicelli, ...	„ „	0 1 8 0
Vermilion, ...	„ „	2 5 0 0
Wax, White or Insect, ...	„ „	1 5 0 0
Wood, Piles, Poles, and Joists, ...	each	0 0 3 0
Wooden Ware, ...	per 100 catties	1 1 5 0
Wool, ...	„ „	0 3 5 0

RULES.

RULE 1.—*Unenumerated Goods.*

ARTICLES not enumerated in the list of exports, but enumerated in the list of imports, when exported, will pay the amount of duty set against them in the list of imports; and similarly, articles not enumerated in the list of imports, but enumerated in the list of exports, when imported, will pay the amount of duty set against them in the list of exports.

Articles not enumerated in either list, nor in the list of duty-free goods, will pay an *ad valorem* duty of 5 per cent. calculated on their market value.

RULE 2.—*Duty-free Goods.*

Gold and silver bullion, foreign coins, flour, Indian meal, sago, biscuit, preserved meats and vegetables, cheese, butter, confectionary, foreign clothing, jewelry, plated-ware, perfumery, soap of all kinds, charcoal, firewood, candles (foreign), tobacco (foreign), cigars (foreign), wine, beer, spirits, household stores, ship's stores, personal baggage, stationery, carpeting, druggeting, cutlery, foreign medicines, and glass and crystal-ware.

The above pay no import or export duty, but if transported into the interior, will, with the exception of personal baggage, gold and silver bullion, and foreign coins, pay a transit duty at the rate of $2\frac{1}{2}$ per cent. *ad valorem*.

A freight or part freight of duty-free commodities (personal baggage, gold and silver bullion, and foreign coins, excepted) will render the vessel carrying them, though no other cargo be on board, liable to tonnage-dues.

RULE 3.—*Contraband Goods.*

Import and export trade is alike prohibited in the following articles:—Gunpowder, shot, cannon, fowling-pieces, rifles, muskets, pistols, and all other Indigenous implements of war: and salt.

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RULE 4.—*Weights and Measures.*

Joss-stic calculations of the tariff, the weight of a picul of one hundred catties Kittysols, be equal to one hundred and thirty-three and one third pounds Lacquered and the length of a *chang* of ten Chinese feet, to be equal to one Lamp-wicks, forty-one English inches.

One Chinese *chih* is held to equal fourteen and one tenth inches English; and four yards English less three inches to equal one *chang*.

RULE 5.—*Regarding certain Commodities heretofore Contraband.*

The restrictions affecting trade in opium, cash, grain, pulse, sulphur, brimstone, saltpeter, and spelter, are relaxed under the following conditions:—

1. Opium will henceforth pay thirty taels per picul import duty. The importer will sell it only at the port. It will be carried into the interior by Chinese only, and only as Chinese property; the foreign trader will not be allowed to accompany it. The provisions of Art. XXX. of the Treaty of Tientsin, by which it is agreed that "should at any time the Tá Tsing Empire grant to any nation, or the merchants or citizens of any nation, any right, privilege, or favor, it shall at once freely enure to the benefit of the United States, its public officers, merchants, and citizens;" and therefore the citizens and merchants of the United States are permitted thereby to proceed into the interior of China to trade, will not extend to this commodity; the transit duties on it will be arranged as the Chinese Government sees fit, nor in future revisions of the tariff is the same rule of revision to be applied to opium as to other goods.

2. *Copper cash.* The export of cash to any foreign port is prohibited, but it may be shipped at one of the open ports of China for another, on compliance with the following regulation: The shipper shall give notice of the amount of cash he desires to ship, and the port of its destination, and shall bind himself, either by a bond with two sufficient sureties, or by depositing such other security as may be deemed by the Customs satisfactory, to return, within six months from the date of clearance, to the collector at the port of shipment, the certificate issued by him, with an acknowledgment thereon of the receipt of the cash at the port of destination, by the collector at that port, who shall affix his seal thereto; or, failing the production of the certificate, to forfeit a sum equal in value to the cash shipped. Cash will pay no duty inwards or outwards; but a freight, or part freight of cash, though no other cargo be on board, will render the vessel carrying it liable to pay tonnage-dues.

3. The export of rice and all other grain whatsoever, native or foreign, no matter where grown or whence imported, to any foreign port, is prohibited; but these commodities may be carried by American merchants from one of the open ports of China to another, under the same conditions in respect to security as copper cash, on payment at the port of shipment of the duty specified in the Tariff. No import duty will be leviable on rice or grain; but a freight, or part freight of rice or grain, though no other cargo be on board, will render the vessel importing it liable to tonnage-dues.

4. *Pulse.* The export of pulse and bean-cake from Tangchau and Newchwang, under any foreign flag is prohibited. From any other of the open ports they may be shipped, on payment of the tariff duty, either to other ports of China, or to foreign countries.

5. Saltpeter, sulphur, brimstone, and spelter, being munitions of war, shall not be imported, save at the requisition of the Chinese Government, or for sale to Chinese duly authorized to purchase them. No permit to land them will be issued until the Customs have proof that the necessary authority has been given to the purchaser. It shall not be lawful for any foreign merchant to carry these commodities up the Yang-tsz'-kiang, or into any port other than those open to the seaboard, nor to accompany them into the interior on behalf of Chinese. They must be sold at the ports only, and except at the ports, they will be regarded as Chinese property, with which American citizens and merchants have no concern.

Infractions of the conditions, as above set forth, under which trade in opium, cash, grain, pulse, saltpeter, brimstone, and spelter, may be henceforward carried on, will be punishable by confiscation of all the goods concerned.

RULE 6.—*Liability of Vessels entering Port.*

For the prevention of misunderstanding, it is agreed that the term of twenty-four hours is the limit within which American vessels entering a port must be reported to the United States Consul; and also that the provisions of Art. XIX of the treaty of Tientsin, by which American ships entering port are allowed forty-eight hours to depart without payment of tonnage-dues, shall

be understood to commence from the time the vessel comes within the limits of the port. The limits of the ports shall be defined by the Customs, with all consideration for the convenience of trade, compatible with due protection of the revenue; also the limits of the anchorages within which lading and discharging is permitted by the Customs; and the same shall be notified to the consuls for public information.

RULE 7.—*Transit Dues.*

It is agreed that the transit dues upon goods imported or exported shall be one half of the tariff duties, except in the case of the duty-free goods liable to a transit duty of 2½ per cent. *ad valorem*, as provided in Rule II. above. Merchandize shall be cleared of its transit dues under the following conditions:

In the case of Imports.—Notice being given at the port of entry, from which the imports are to be forwarded inland, of the nature and quantity of the goods; the ship from which they have been landed, and the place inland to which they are bound, with all other necessary particulars, the Collector of Customs will, on due inspection made, and on receipt of the transit duty due, issue a transit-duty certificate. This must be produced at every barrier station and *viséd*. No further duty will be leviable upon imports so certificated, no matter how distant the place of their destination.

In the case of Exports.—Produce purchased by an American citizen in the interior will be inspected and taken account of, at the first barrier it passes on its way to the port of shipment. A memorandum, showing the amount of the produce, and the port at which it is to be shipped, will be deposited there by the person in charge of the produce; he will then receive a certificate, which must be exhibited and *viséd* at every barrier on his way to the port of shipment. On the arrival of the produce at the barrier nearest the port, notice must be given to the Customs at that port, and the transit duties due thereon being paid, it will be passed. On exportation, the produce will pay the tariff duty.

Any attempt to pass goods inwards or outwards, otherwise than in compliance with this rule or unauthorized sale, *in transitu*, of goods that have been entered as above for a port, will render them liable to confiscation. Any attempt to pass goods in excess of the quantity specified in the certificate, will render all the goods of the same denomination named in the certificate liable to confiscation. Permission to export produce, which cannot be proved to have paid its transit dues, will be refused by the Customs until they shall have been paid. It being allowed by this rule that the transit dues on merchandise shall be levied once for all, no others shall be demanded after they have been paid.

RULE 8.—*Foreign Trade under Passport.*

It is agreed that citizens of the United States going into the country for purposes of trade shall not enter the capital city of Peking for that object.

RULE 9.—*Abolition of the Meltage Fee.*

It is agreed that the percentage of one tael two mace, hitherto charged in excess of duty payments to defray the expenses of melting by the Chinese Government, shall be no longer levied on American citizens.

RULE 10.—*Collection of Duties under one System at all Ports.*

It being by treaty, at the option of the Chinese Government to adopt what means appear to it best suited to protect its revenue accruing on foreign trade, it is agreed that one uniform system shall be enforced at every port.

The high officer appointed by the Chinese Government to superintend foreign trade, will, accordingly, from time to time, either himself visit, or will send a deputy to visit the different ports. This high officer will be at liberty of his own choice, and independently of the suggestion or nomination of any American authority, to select any American citizen he may see fit to aid him in the administration of the customs revenue; in the prevention of smuggling; in the definition of port boundaries; or in discharging the duties of harbor-master; also in the distribution of lights, buoys, beacons, and the like, the maintenance of which shall be provided for out of the tonnage-dues.

The Chinese Government shall adopt what measures it shall find requisite to prevent smuggling upon the Yang-tsz' kiang, when that river shall be opened to trade.

Chinese text of the Ten Commercial Rules.

一 第一欵

此次新定税則凡有貨物僅載進口税則未載出口税則者遇有出口皆應
照進口税則納税或有僅載出口税則未載進口税則者遇有進口亦皆照
出口税則納倘有貨物名目進出口税則均未載又不在免税之列者
應核估時價照值百抽五例征税

一 第二欵

凡有金銀外國各等銀錢麵粟米粉砂穀米麵餅熟肉熟菜牛奶酥牛油蜜
餞外國衣服金銀首飾攙銀器香水鹼炭柴薪外國臘燭外國煙絲煙葉外
國酒家用雜物船用雜物行李紙張筆墨氈毯鐵刀利器外國自用藥料玻
璃器皿以上各物進出口通商各口皆准免税除金銀外國銀錢行李毋庸
議外其餘該船裝載無論淺滿雖無別貨亦應完納船鈔倘運往內地除前
三項仍毋庸議外其餘各貨皆每百兩之物完納税銀貳兩伍錢

一 第三欵

凡有違禁貨物如火藥大小彈子炮位大小鳥鎗并一切軍器等類及內地
食鹽以上各物概屬違禁不准販運進出口

一 第四欵

凡有税則內所筭輕重長短中國壹擔卽係壹百觔者以美國壹百三十三
磅零三分之一爲準中國壹丈卽拾尺者以美國一百肆拾一因制爲準中

一

石時准淺銷註具章又涉體送在商向
萱照運滿執明呈程銅其均在口遵來
餅依出均照收保遵錢如沾天銷行洋
在稅外納卽到單行不何按津賣納藥
登則國船按字抑該准征此條一稅銅
州納惟鈔其樣或商運稅美約經貿錢
牛稅美　錢加聽赴出聽國第離易米
莊其國又貨蓋監關外憑商三口洋穀
兩進商凡原印督報國中民十卽藥萱
口口人米本信飭明惟國亦條屬准石
者毋欲穀照從令數通辦可所中其硝
外庸運等數給另目商理前載國進磺
國納往糧罰照交若中嗣往中貨口白
商稅中不繳之結干國後內國物議鉛
船至華拘入日實運各遇地凡祇定等
不船通內官起信往口修通有准每物
准載商外其限據何准改商利華百例
裝毋別土進陸方口其稅至益商勉皆
載論口產出個准或以則內施運納不
出淺則不口月給令此仍地及入稅准
口滿照分均繳照本口不關他內銀通
其均銅由免回別商運得稅國地三商
餘遵錢何納驗口及至按之者外拾現
各納一處稅銷監同彼照例准國兩定
口船律進至若督商口別向美商惟稍
該鈔辦口船過於二按貨與國人該寬
商　理者載期執人照定洋商不商其
照又出皆無不照聯現稅藥民得止禁
稅萱口不論繳上名定　無一護准聽

國一地爲一尺卽美國拾肆因制又拾分因制之一美國拾貳因制爲一幅地三幅

第五欵

碼肆碼欠三因制卽合中國一丈均以此爲例

則官實入商敢　美並總地商　內貨照于關不
納自奉長無違　國未以均民　原每除地發重
准行稅江涉此第船開該由遵第稅金裝值給征
仍買採並以例六隻艙船海辦七餉銀百何內至
可辦定各上所欵進欲進關　欵所之外兩船地運
不進內洋運　運口發港藥貨　或單亦銅物　由口起不錢全　及華貨米准罰　外商此代穀入　國特三華萱　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
帶進口行口　運口運發藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
完國議　妥口行口　運洋內不進帶　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
銀現　爲界他限　運洋內不進帶　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
錢定　定限往一　進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
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李入　既刻二報　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
稅　要起日領　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
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總　商以內官　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
以　更免出知　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
照　不參口照　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
並　得差卽並　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
其一　有爭不照　帶進不內洋運　運口發港藥貨　出單或銅物　口由起不錢全　及華貨米罰　外商此代穀入　國特三華萱官　俱奉商項石　可准止護萱　買送准併　又明外除硝　文國在橫硝　各商方白　白准人海鉛　口於進鉛等　均口通外項　爲商該即止　軍關海係准　前未口華照　要能銷民新　查物售貨章　應明不物程　由該准與買　華商帶美賣
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貨之人開單註明貨物若干應在何口卸貨呈交該子口存留發給執照准其前往路上各子口查驗蓋戳至最後子口先赴出口海關報完內地稅項方許過卡俟下船出口時再完出口之稅若進出有違此例及業經報明指赴何口沿途私賣者各貨均罰入官倘有匿單少報等情將單內同類之貨全數入官所運各貨如無內地納稅實據應由海關飭令完清內地關稅始行發單下貨出口以杜隱漏內地稅則經此次議定既准一次納稅概不重征

第八欵

一現議美國商民前往內地通商不得到中華京都貿易

第九欵

一向例美商完納稅餉每百兩另交銀壹兩貳錢作爲傾鎔之費嗣後裁撤美商毋庸另交傾鎔銀兩

第十欵

一通商各口收稅如何嚴防偷漏自應由中國設法辦理條約業已載明然現已議明各口畫一辦理是由總理外國通商事宜大臣或隨時親詣巡歷或委員代辦任憑總理大臣邀請美國人幫辦稅務並嚴查漏稅判定口界派人指泊船隻及分設浮樁號船塔表望樓等事毋庸美官指薦干預其浮樁號船塔表望樓等經費在於船鈔項下撥用至長江如何嚴防偷漏之處俟通商後察看情形任憑中國設法籌辦

CONVENTION FOR SETTLEMENT OF CLAIMS.

In order to carry into effect the Convention made at Tientsin by the high Commissioners and Plenipotentiaries respectively representing the United States of America and the Tá Tsing Empire, for the satisfaction of claims of American citizens, by which it was agreed that one fifth of all tonnage, import, and export duties payable on American ships, and goods shipped in American vessels at the ports of Canton, Shanghai and Fuhchau, to an amount not exceeding six hundred thousand taels, should be applied to that end; and the Plenipotentiary of the United States, actuated by a friendly feeling towards China, is willing, on behalf of the United States, to reduce the amount needed for such claims to an aggregate of five hundred thousand taels, it is now expressly agreed by the high contracting parties in the form of a supplementary Convention as follows:—

ARTICLE I.

That, on the first day of the next Chinese year, the collectors of customs at the said three ports shall issue debentures to the amount of five hundred thousand taels, to be delivered to such persons as may be named by the Minister, or chief diplomatic officer of the United States in China, and it is agreed that the amount shall be distributed as follows:—Three hundred thousand taels at Canton, one hundred thousand at Shanghai, and one hundred thousand at Fuhchau, which shall be received in payment of one fifth of the tonnage, export, and import duties on American ships, or goods in American ships at the said ports; and it is agreed that this amount shall be in full liquidation of all claims of American citizens at the various ports to this date.

In faith whereof, the respective Plenipotentiaries of the United States of America and of the Tá Tsing Empire: that is to say, on the part of the United States, William B. Reed, Envoy Extraordinary and Minister Plenipotentiary: and on the part of the Tá Tsing Empire, Kweiliang, a member of the Privy Council, Captain-General of the plain white banner division of the Manchu Bannermen, and Superintendent of the Board of Punishments; and Hwashana, Classical Reader at Banquets, President of the Board of Civil Office, Captain-General of the bordered blue banner division of the Chinese Bannermen, both of them Plenipotentiaries; with Ho Kwei-tsing, Governor-General of the Two Kiang provinces, President of the Board of War and Guardian of the heir-apparent; Mingshen, President of the Ordnance Office of the Imperial household, with the insignia of the second grade; and Twan, a titular President of the fifth grade, member of the establishment of the General Council, and one of the junior Under-Secretaries of the Board of Punishments; all of them special commissioners deputed for the purpose, have signed and sealed these presents.

Done at Shanghai, this eighth day of November, in the year of our Lord, one thousand eight hundred and fifty-eight, and of the Inde-

pendence of the United States, the eighty-third; and in the eighth year of Hienfung, the tenth month, and third day.

WILLIAM B. REED. L. S.

Seal of the Chinese Commissioners.

Signatures of Five Chinese Commissioners.

AN ACT to carry into effect the Convention between the United States and China, concluded on the eighth of November, eighteen hundred and fifty-eight at Shanghai.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Minister, or chief diplomatic officer of the United States in China, shall, so soon as the Chinese revenue officers issue the debentures, or duty receipts provided for in the Convention, select some proper Depositary of the same in China, making such compensation as he shall think right, the said debentures, or their proceeds being subject to the appropriation hereinafter provided.

SEC. 2. *And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint two commissioners who shall form a Board in China, to receive and examine all claims which may be presented to them, under the said convention, according to the provisions of the same, the principles of justice and international law.

SEC. 3. *And be it further enacted*, That the Board so constituted shall meet at such time and place as shall be designated by the chief diplomatic officer in China, and within one year from the time of said meeting shall terminate their duties.

SEC. 4. *And be it further enacted*, That the compensation of the said commissioners shall be three thousand dollars per annum, and the President of the United States is authorised to make such provision for the contingent expenses of the commission, as shall appear to him necessary and proper, and the said salaries and expenses shall be paid out of any moneys in the treasury not otherwise appropriated.

SEC. 5. *And be it further enacted*, That the said commissioners shall report to the chief diplomatic officer in China, the several awards made by them, to be approved by him, a copy of which shall be by him translated to the Depositary of the debentures, or the proceeds as hereinbefore provided, who shall thereupon distribute. in rateable proportion, the said debentures, or their proceeds, according to the direction of the said diplomatic officer.

SEC. 6. *And be it further enacted*, That so soon as the said commission shall be executed and completed, the records and documents, and all other papers in the possession of the commissioners, relating to the same, shall be deposited in the office of the Secretary of State.

Approved, March 3d, 1859.

ACT OF CONGRESS.

August 11th, 1848.

United States of America,
Department of State.

To all to whom these presents shall come, Greeting: I certify that the following is a true and complete copy of an "Act to carry into effect certain provisions in the Treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries;" copied from, and carefully collated with, the original roll on file in this Department.

In testimony whereof, I, James Buchanan, Secretary of State of the United States, have hereunto subscribed my name, and caused the seal of the Department of State to be affixed. Done at the city of Washington, this twenty-eighth day of August, A. D. 1848, and of the Independence of the United States the seventy-third.

(L. S.) James Buchanan.

Legation of the United States.

By direction of his Excellency John W. Davis, Commissioner of the United States of America to China, the following Act is hereby published for the information and guidance of citizens of the United States, visiting or residing in China.

Peter Parker,
Secretary of Legation.

Canton, 29*th November*, 1848.

AN ACT to carry into effect certain Provisions in the Treaties between the United States and China and the Ottoman Porte, giving certain Judicial Powers to Ministers and Consuls of the United States in those countries.

Commissioner and Consuls vested with judicial authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to carry into full effect the provisions of the treaty of July third, eighteen hundred and forty-four, with the Chinese Empire, the Commissioner and the Consuls of the United States, duly appointed to reside in China, shall, in addition to the other powers and duties imposed upon them by the provisions of said treaty, be vested with the judicial authority herein described, which shall appertain to the said office of Commissioner and Consul, and be a part of the duties belonging thereto.

Power to try citizens for crimes committed in China.

SEC. 2. *And be it further enacted*, That, in regard to *Crimes and Misdemeanors*, the said public functionaries are fully empowered to arraign and try, in the manner herein provided, all citizens of the United States charged with offenses against law, which shall be committed in the dominions of China, including Macao, and upon conviction, to sentence such offenders in the manner herein authorized; and the said functionaries, and each of them, are hereby authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

Civil jurisdiction.

SEC. 3. *And be it further enacted*, That, in regard to *Civil Rights*, whether of property or person, the said functionaries are hereby vested with all the judicial authority necessary to execute the provisions of said treaty, and shall entertain jurisdiction in matters of contract at the port where, or nearest to which, the contract was made, or

at the port at which, or nearest to which, it was to be executed; and in all other matters at the port where, or nearest to which, the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained — any such port above-named being always one of the five mentioned in the treaty; which jurisdiction shall embrace all controversies between citizens of the United States, or others provided for by said treaty.

Laws of the United States, so far as applicable, to be adhered to.

SEC. 4. *And be it further enacted*, That such jurisdiction in Criminal and Civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute said treaty, extended over all citizens of the United States in China, (and over all others to the extent the terms of the treaty justify or require,) so far as such laws are suitable to carry said treaty into effect: but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law shall be extended in like manner over such citizens and others in China; and if defects still remain to be supplied, and neither the common law nor the statutes of the United States furnish appropriate and suitable remedies, the Commissioner shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

Forms of process to be prescribed by the Commissioner, with the approbation of the Consuls.

SEC. 5. *And be it further enacted*, That, in order to organize and carry into effect the system of jurisprudence demanded by said treaty, the Commissioner, with the advice of the several Consuls for the five ports named in said treaty, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of the said Consuls; the mode of executing, and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of

examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process, and to carry this Act into effect, shall be appointed and compensated; the form of bail-bonds, and the security which shall be required of the party who appeals from the decision of a Consul; and generally, without further enumeration, to make all such decrees and regulations from time to time, under the provisions of this Act, as the exigency may demand; and all such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as above provided, for the advice of the Consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the Commissioner may, nevertheless, by causing the decree, order, or regulation, to be published with his signature thereto, and the opinions of his advisers inscribed thereon, [make it] to become binding and obligatory until annulled or modified by Congress; and it shall take effect from the publication, or any subsequent day thereto named in the act.

Regulations to be submitted to Congress for revision.

SEC. 6. *And be it further enacted*, That all such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the Commissioner, with the opinions of his advisers, as drawn up by them severally, to the President, to be laid before Congress for revision.

Consuls may arrest and try citizens.

SEC. 7. *And be it further enacted*, That each of the Consuls aforesaid, at the port for which he is appointed, shall be competent under the authority herein contained, upon facts within his own knowledge, or which he has good reason to believe true, or upon complaint made, or information filed in writing and authenticated in such way as shall be prescribed by the Commissioners, to

issue his warrant for the arrest of any citizen of the United States charged with committing in China an offense against law; and when arrested, to arraign and try any such offender; and upon conviction, to sentence him to punishment in the manner herein prescribed; always meting out [punishment] in a manner proportioned to the offense; which punishment shall, in all cases, except as is herein otherwise provided, be either fine or imprisonment.

Decisions of Consuls final, when the penalty does not exceed $100, or 60 days' imprisonment.

SEC. 8. *And be it further enacted*, That any Consul, when sitting alone for the trial of offenses, shall decide all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days, and there shall be no appeal therefrom, except as provided in section eleven of this Act.

Consuls may decide in other cases, the defendant having a right of appeal.

SEC. 9. *And be it further enacted*, That when sitting alone, he may also decide all cases in which the fine imposed does not exceed five hundred dollars, or the term of imprisonment does not exceed ninety days; but in all such cases, if the fine exceeds one hundred dollars, or the imprisonment exceeds ninety days, the defendant may, by complying with the requirements in cases of appeal, carry the case before the Commissioner by appeal.

Consul in important criminal cases to summon one or more citizens to sit with him.

SEC. 10. *And be it further enacted*, That whenever in any case the Consul shall be of opinion that, by reason of the legal questions that may arise therein, assistance will be useful to him, or whenever be shall be of opinion that a severer punishment than those above specified will be required, he shall in either case summon one or more citizens of the United States, not exceeding four in number, but in capital cases not less than four, who shall be persons of good repute and competent to the duty, to sit with him in the trial, and who, after so sitting upon the trial, shall each enter upon

the record his judgment and opinion, and sign the same. The Consul shall, however, decide the case; but if his decision is opposed by the opinion of one or more of his associates, the case, without further proceedings, together with the evidence and opinions, shall be referred to the Commissioner for his final adjudication, either by entering up judgment therein, or remitting the same to the Consul, with instructions how to proceed therewith; but in all such cases, except capital offenses, if the Consul and his associates concur in opinion, the decision shall be final.

Jurisdiction of Consul in civil cases where the demand does not exceed $500. Associates to be summoned in difficult and more important cases.

SEC. 11. *And be it further enacted*, That the Consuls aforesaid, and each of them, at the port for which he is appointed, shall have jurisdiction as is herein provided, in all civil cases arising under said treaty, wherein the damage demanded does not exceed the sum of five hundred dollars; and if he see fit to decide the same without aid, his decision thereon shall be final; but if in his judgment any case involves legal perplexities, and assistance will be useful, or if the damage demanded exceeds five hundred dollars, in either such case it shall be his duty to summon to his aid not less than two, nor more than three, citizens of the United States, of good repute and competent to the duty, who shall with him hear any such case; and if the Consul and his associates concur in opinion, the judgment shall be final; but if the associates, or any of them, differ from the Consul, the opinions of all shall be noted on the record, and each shall subscribe his name to his assent to, or dissent from, the Consul, with such reasons therefor as he thinks proper to assign, and either party may thereupon appeal, under such regulations as may exist, to the Commissioner; but if no appeal is lawfully claimed, the decision of the Consul shall be final and conclusive.

Evidence to be taken down in writing.

SEC. 12. *And be it further enacted*, That in all cases, criminal and civil, the evidence shall be taken down in writing in open

court, under such regulations as may be made for that purpose; and all objections to the competency or character of testimony shall be noted down, with the ruling in all such cases, and the evidence shall be part of the case.

Authority of the Commissioner.

SEC. 13. *And be it further enacted*, That the Commissioner of the United States shall, in addition to his power to make regulations and decrees, as is herein provided, be fully authorized to hear and decide all cases, criminal and civil, which may come before him under the provisions of this Act, and to issue all processes necessary to execute the power conferred upon him; and he is hereby fully empowered to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he may also prescribe the rules upon which new trials may be granted, either by the Consul or by himself, if asked for upon justifiable grounds.

Fines and imprisonments, how to be enforced.

SEC. 14. *And be it further enacted*, That in all cases, except as is herein otherwise provided, the punishment of crime provided for by this Act shall be by fine or imprisonment, or both, at the discretion of the functionary who decides the case, but subject to the regulations herein contained, and such as may hereafter be made. It shall, however, be the duty of each and every functionary to allot punishment according to the magnitude and aggravation of the offense; and all who refuse or neglect to comply with the sentence passed upon them shall stand committed until they do comply, or are discharged by order of the Consul, with the consent of the Commissioner.

Murder and Insurrection, or Rebellion against the Chinese Government, capital offenses.

SEC. 15. *And be it further enacted*, That Murder and Insurrection, or Rebellion against the Chinese government, with intent to subvert the same, shall be capital offenses, punishable with death; but no person shall

be convicted of either of said crimes unless the Consul and his associates in the trial all concur in opinion, and the Commissioner also approves of the conviction; but it shall always be lawful to convict one put upon trial for either of these crimes of a lesser offense of a similar character, if the evidence justifies it; and when so convicted, to punish as for other offenses, by fine or imprisonment, or both.

Commissioner to issue executions, or may postpone, pending a reference to the President.

SEC. 16. *And be it further enacted*, That whenever any one shall be convicted of either of the crimes punishable with death, as aforesaid, it shall be the duty of the Commissioner to issue his warrant for the execution of such convict, appointing the time, place, and manner; but if the said Commissioner shall be satisfied that the ends of public justice demand it, he may, from time to time, postpone such execution; and if he finds mitigatory circumstances which may authorize it, may submit the case to the President of the United States for pardon.

Tariff of fees for judicial services to be established.

SEC. 17. *And be it further enacted*, That it shall be the duty of the Commissioner to establish a tariff of fees for judicial services, which shall be paid by such parties and to such persons, as said Commissioner shall direct; and the proceeds shall, as far as is necessary, be applied to defray the expenses incident to the execution of this Act; and regular accounts both of receipts and expenditures, shall be kept and laid before Congress by the Commissioner annually.

$1000 each to be allowed to Commissioner and Consuls in addition to salary and fees.

SEC. 18. *And be it further enacted*, That in consideration of the duties herein imposed upon the Commissioner, there shall be paid to him, out of the treasury of the United States, annually, the sum of one thousand dollars, in addition to his salary; and there shall also be paid, annually, to each of said Consuls, for a like reason, the sum of one thousand dollars, in addition to consular fees.

Crimes not of a heinous character may be settled by the parties with assent of the Commissioner or Consul.

SEC. 19. *And be it further enacted*, That in all criminal cases which are not of a heinous character, it shall be lawful for the parties aggrieved or concerned therein, with the assent of the Commissioner or Consul, to adjust and settle the same among themselves, upon pecuniary or other considerations.

Commissioner and Consuls to encourage the extra-judicial arrangement of civil suits.

SEC. 20. *And be it further enacted*, That it shall be the duty also of the Commissioner and the Consuls to encourage the settlement of controversies of a civil character by mutual agreement, or to submit them to the decision of referees agreed upon by the parties, a majority of whom shall have power to decide the matter. And it shall be the duty of the Commissioner to prepare a form of submission for such cases, to be signed by the parties and acknowledged before the Consul; and when parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed *ex parte*, in case either party refuses or neglects to appear; and, after hearing any case, may deliver their award sealed to the Consul, who, in court, shall open the same; and if he accepts it, he shall endorse the fact, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof: *provided, however*, that the parties may always settle the same before return thereof is made to the Consul.

Chinese authorities to be called upon to aid in carrying out the Treaty.

SEC. 21. *And be it further enacted*, That the Commissioner and the Consuls shall be fully authorized to call upon the Chinese authorities to sustain and support them in the execution of the powers confided to them by said treaty, and on their part to do and perform whatever is necessary to carry the provisions of said treaty into full effect, so far as they are to be executed in China.

Provisions of this act to extend to Turkey.

SEC. 22. *And be it further enacted*, That the provisions of this Act, so far as the same relate to crimes committed by citi-

zens of the United States, shall extend to Turkey under the Treaty with the Sublime Porte of May seventh, eighteen hundred and thirty, and shall be executed in the dominions of the Sublime Porte, in conformity with the provisions of said treaty, by the Minister of the United States, and the Consuls appointed by the United States to reside therein, who are hereby *ex officio* vested with the powers herein contained, for the purposes above expressed, so far as regards the punishment of crime.

Definition of the words Commissioner, Minister and Consul.

SEC. 23. *And be it further enacted*, That the word *Commissioner*, when used in this Act, shall be understood to mean the person vested with and exercising the principal diplomatic functions in China; and the word *Minister*, as meaning the person vested with the powers of chief diplomatic functionary of the United States in Turkey. The word *Consul* shall be understood to mean any person vested by the United States with, and exercising, the consular authority in any of the five ports in China named in the treaty, or in any port in Turkey.

Such officers to be responsible to the United States.

SEC. 24. *And be it further enacted*, That all such officers shall be reponsible for their conduct to the United States and to the laws thereof, not only as diplomatic functionaries and commercial functionaries, but as judicial officers when they perform judicial duties, and shall be held liable for all negligencies and misconduct as public officers.

ROBT. C. WINTHROP,
Speaker of the House of Representatives.

DAVID R. ATCHISON,
President pro tempore of the Senate.

APPROVED, August 11th, 1848.
JAMES K. POLK.

AN ACT to repeal so much of the Act approved August 11th, 1848, as extends the provisions thereof to Macao.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act "To carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte," giving certain judicial powers to ministers and consuls of the United States in those countries, approved the eleventh day of August, eighteen hundred and forty-eight, as extends jurisdiction over, or the right to exercise any of the powers conferred by said act in Macao, be, and the same is hereby repealed.

Approved, September 20th, 1850.

AN ACT to carry into effect certain Provisions in the Treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain Judicial Powers to Ministers and Consuls, or other functionaries of the United States in those countries, or for other purposes.

Published for their information by the Department of State, Washington, July 2, 1860.

NOTE.—Treaties were negotiated with China, July 3d, 1844; and June 18th, 1858; and a Convention, November 8th, 1858.

Treaties were negotiated with Japan, March 31st, 1854; and June 17th, 1857; and July 29th, 1858.

A Treaty was negotiated with Persia, December 13th, 1856.

Treaties were negotiated with Siam, March 20th, 1833; and May 29th, 1856.

Ministers and Consuls invested with judicial powers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to carry into full effect the provisions of the treaties of the United States with the empires of China, Japan, and Siam, respectively, that Ministers and Consuls of the United States, duly appointed to reside in each of the said countries, shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaties respectively, be invested with the judicial authority herein described, which shall appertain to the said office of Minister and Consul, and be a part of the duties belonging thereto, wherein the same is allowed by treaty.

Crimes and Misdemeanors.

SEC. 2. *And be it further enacted*, That in regard to *Crimes and Misdemeanors*, the said public functionaries are hereby fully empowered to arraign and try, in the manner herein provided, all citizens of the United States charged with offenses against law, which shall be committed

in such countries, respectively, and upon conviction, to sentence such offenders in the manner herein authorized; and the said functionaries, and each of them, are hereby authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

Civil jurisdiction.

SEC. 3. *And be it further enacted*, That in regard to *civil rights*, whether of property or person, the said functionaries are hereby invested with all the judicial authority necessary to execute the provisions of such treaties, respectively, and shall entertain jurisdiction in matters of contract at the port where, or nearest to which, the contract was made, or at the port at which, or nearest to which, it was to be executed; and in all other matters at the port where, or nearest to which, the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained; — any such port abovenamed being always one of the ports at which the United States are represented by consuls; which jurisdiction shall embrace all controversies between citizens of the United States, or others provided for by such treaties, respectively.

Laws of the United States, so far as applicable, to be adhered to.

SEC. 4. *And be it further enacted*, That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, extended over all citizens of the United States in the said countries, (and over all others to the extent that the terms of the said treaties, respectively, justify or require,) so far as such laws are suitable to carry the said treaties into effect: but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law, includi[illegible] equity and admiralty, shall be extended in like m[illegible] of over such citizens and others in the said countr[illegible] the if defects still remain to be supplied, and ne[illegible]imprison- common law, including equity and admira[illegible] contempt.

statutes of the United States, furnish appropriate and suitable remedies, the Ministers in the said countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

Forms of process to be prescribed by the Ministers, with the approbation of the Consuls.

SEC. 5. *And be it further enacted*, That, in order to organize and carry into effect the system of jurisprudence demanded by such treaties, respectively, the said Ministers, with the advice of the several consuls in each of the said countries, respectively, or so many of them as can be conveniently assembled, shall prescribe the forms of all processes which shall be issued by any of the said consuls; the mode of executing and the time of returning the same; the manner in which trials shall be conducted and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs which shall be allowed to the prevailing party, and the fees which shall be paid for judicial services to defray necessary expenses; the manner in which all officers and agents to execute process, and to carry this Act into effect, shall be appointed and compensated; the form of bail-bonds, and the security which shall be required of the party who appeals from the decision of a consul; and generally, without further enumeration, to make all such decrees and regulations from time to time, under the provisions of this Act, as the exigency may demand: and all such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as above provided, for the advice of the consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, who shall each signify his assent or dissent in writing, with his name subscribed thereto; and after taking such advice, and considering the same, the Minister in the said countries respective-

ay, nevertheless, by causing the decree, order, or fully etion to be published with his signature thereto, herein opinions of his advisers inscribed thereon, make ed with one binding and obligatory until annulled or

modified by Congress; and it shall take effect from the publication, or any subsequent day thereto named in the Act.

Regulations to be submitted to Congress for revision.

SEC. 6. *And be it further enacted*, That all such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the said Ministers with the opinions of their advisers, as drawn up by them severally, to the Secretary of State to be laid before Congress for revision.

Consuls may arrest and try citizens.

SEC. 7. *And be it further enacted*, That each of the consuls aforesaid, at the port for which he is appointed, shall be competent, under the authority herein contained, upon facts within his own knowledge, or which he has good reason to believe true, or upon complaint made, or information filed in writing and authenticated in such way as shall be prescribed by the Minister, to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offense against law; and when arrested, to arraign and try any such offender; and upon conviction to sentence him to punishment in the manner herein prescribed; always meting out punishment in a manner proportioned to the offense; which punishment shall, in all cases, except as is herein otherwise provided, be either fine or imprisonment.

Limitation of Consular jurisdiction to $100 fine or 60 days' imprisonment; punishment for contempt.

SEC. 8. *And be it further enacted*, That any consul, when sitting alone for the trial of offenses or misdemeanors, shall finally decide all cases where the fine imposed does not exceed one hundred dollars, or the term of imprisonment does not exceed sixty days; and there shall be no appeal therefrom except as provided in section eleven of this Act. But no fine imposed by a consul for a contempt committed in the presence of the court, or for failing to obey a summons from the same, shall exceed fifty dollars, nor shall the imprisonment exceed twenty-four hours for the same contempt.

Consuls may decide in other cases, the defendant having a right of appeal.

SEC. 9. *And be it further enacted*, That when sitting alone, he may also decide all cases in which the fine imposed does not exceed five hundred dollars, or the term of imprisonment does not exceed ninety days; but in all such cases, if the fine exceeds one hundred dollars, or the term of imprisonment for misdemeanor exceeds ninety days, the defendants (or any of them if there be more than one) may take the case by appeal before the Minister of the United States, if allowed jurisdiction, either upon errors of law or matters of fact, under such rules as may be prescribed by the Minister for the prosecution of appeals in such cases.

Associates to be summoned in important cases; references to U. S. Minister, and when consul's decision is final.

SEC. 10. *And be it further enacted*, That whenever in any case, the consul shall be of opinion that, by reason of the legal questions which may arise therein, assistance will be useful to him, or whenever he shall be of opinion that a severer punishment than those above specified will be required, he shall in either case, summon one or more citizens of the United States, not exceeding four in number, taken by lot from a list of individuals which shall have been submitted previously to the Minister for his approval, but in capital cases not less than four, who shall be persons of good repute and competent to the duty, to sit with him in the trial, and who, after so sitting upon the trial, shall each enter upon the record his judgment and opinion, and sign the same. The consul shall, however, give judgment in the case; but if his decision is opposed by the opinion of one or more of his associates, the case without further proceedings, together with the evidence and opinions, shall be referred to the Minister for his final adjudication, either by entering up judgment therein, or remitting the same to the consul with instructions how to proceed therewith; but in all such cases, except capital offenses, if the consul and his associates concur in opinion, the decision shall be final, except as is provided in section nine of this Act.

Jurisdiction of Consul in civil cases where the demand does not exceed $500. Associates to be summoned in difficult and more important cases; mode of appeal.

SEC. 11. *And be it further enacted*, That the consuls aforesaid, and each of them, at the port for which he is appointed, shall have jurisdiction as is herein provided, in all civil cases arising under such treaties, respectively, wherein the damage demanded does not exceed the sum of five hundred dollars; and if he see fit to decide the same without aid, his decision thereon shall be final; but if in his judgment, any case involves legal perplexities, and assistance will be useful, or if the damage demanded exceeds five hundred dollars, in either such case it shall be his duty to summon to his aid, from a list of individuals which shall have been nominated for the purposes of this Act to the Minister, and received his approval, not less than two nor more than three citizens of the United States, if such are residing at the port, of good repute and competent to the duty, who shall with him hear any such case; and if the consul and his associates concur in opinion, the judgment shall be final; but if the associates or any of them, differ from the consul, the opinions of all shall be noted on the record, and each shall subscribe his name to his assent to or dissent from the consul, with such reasons therefor as he thinks proper to assign, and either party may thereupon appeal, under such regulations as may exist, to the Minister; but if no appeal is lawfully claimed, the decision of the consul shall be final and conclusive.

Evidence to be taken down in writing.

SEC. 12. *And be it further enacted*, That in all cases, criminal and civil, the evidence shall be taken down in writing in open court, under such regulations as may be made for that purpose; and all objections to the competency or character of testimony shall be noted down, with the ruling in all such cases, and the evidence shall be part of the case.

Jurisdiction of the Minister.

SEC. 13. *And be it further enacted*, That the Minister of the United States in the country to which he is appointed shall, in addition to

his power to make regulations and decrees, as herein provided, be fully authorized to hear and decide all cases, criminal and civil, which may come before him, by appeal, under the provisions of this Act, and to issue all processes necessary to execute the power conferred upon him; and he is hereby fully empowered to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he may also prescribe the rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds.

Fines and imprisonments, how to be enforced.

SEC. 14. *And be it further enacted*, That in all cases, except as is herein otherwise provided, the punishment of crime provided for by this Act shall be by fine or imprisonment, or both, at the discretion of the functionary who decides the case, but subject to the regulations herein contained, and such as may hereafter be made. It shall, however, be the duty of each and every functionary to allot punishment according to the magnitude and aggravation of the offense; and all who refuse or neglect to comply with the sentence passed upon them shall stand committed until they do comply, or are discharged by order of the consul, with the consent of the Minister in the country.

Murder and Insurrection, or rebellion against the Government of these countries are capital offenses.

SEC. 15. *And be it further enacted*, That murder and insurrection, or rebellion against the government of either of the said countries, with intent to subvert the same, shall be capital offenses, punishable with death; but no person shall be convicted of either of said crimes, unless the consul and his associates in the trial all concur in opinion, and the Minister also approves of the conviction; but it shall always be lawful to convict one put upon trial for either of these crimes, of a lesser offense of a similar character if the evidence justifies it; and when so convicted, to punish as for other offenses, by fine or imprisonment, or both.

Minister to issue warrant for executions, or may postpone, pending arreference to the President.

SEC. 16. *And be it further enacted*, That whenever any one shall be convicted of either of the crimes punishable with death, as aforesaid, in either of the said countries, it shall be the duty of the Minister to issue his warrant for the execution of such convict, appointing the time, place, and manner; but if the said Minister shall be satisfied that the ends of public justice demand it, he may from time to time postpone such execution; and if he finds mitigatory circumstances which may authorize it, may submit the case to the President of the United States for pardon.

Tariff of fees for judicial services to be established.

SEC. 17. *And be it further enacted*, That it shall be the duty of the Minister in each of the said countries to establish a tariff of fees for judicial services, which shall be paid by such parties and to such persons, as said Minister shall direct; and the proceeds shall, as far as is necessary, be applied to defray the expenses incident to the execution of this Act; and regular accounts both of receipts and expenditures, shall be kept by the said Minister and consuls, and transmitted annually to the Secretary of State.

Crimes not of a heinous character may be settled by the parties with assent of the Minister or Consul.

SEC. 18. *And be it further enacted*, That in all criminal cases which are not of a heinous character, it shall be lawful for the parties aggrieved or concerned therein, with the assent of the Minister in the country or consul, to adjust and settle the same among themselves, upon pecuniary or other considerations.

Minister and Consuls to encourage the extra-judicial arrangement of civil suits; trial before referees, and mode of process.

SEC. 19. *And be it further enacted*, That it shall be the duty also of the said Ministers and the consuls to encourage the settlement of controversies of a civil character by mutual agreement, or to submit them to the decision of referees agreed upon by the parties, a majority of whom shall have power to decide the matter. And it shall be the duty of the Minister in each country to prepare a form of submission for such cases, to be signed by the parties and acknowledged before

the consul; and when parties have so agreed to refer, the referees may, after suitable notice of the time and place of meeting for the trial, proceed *ex parte*, in case either party refuses or neglects to appear; and, after hearing any case, may deliver their award, sealed, to the consul, who, in court, shall open the same; and if he accepts it, he shall endorse the fact, and judgment shall be rendered thereon, and execution issue in compliance with the terms thereof: *Provided, however*, That the parties may always settle the same before return thereof is made to the consul.

Local authorities to be called upon to aid in carrying out the Treaty.

SEC. 20. *And be it further enacted*, That the Ministers aforesaid and consuls shall be fully authorized to call upon the local authorities to sustain and support them in the execution of the powers confided to them by said treaty, and on their part to do and perform whatever is necessary to carry the provisions of said treaties into full effect, so far as they are to be executed in the said countries, respectively.

What provisions of this act are to extend to Turkey.

SEC. 21. *And be it further enacted*, That the provisions of this Act, so far as the same relate to crimes and offenses committed by citizens of the United States, shall extend to Turkey, under the treaty with the Sublime Porte of May seventh, eighteen hundred and thirty, and shall be executed in the Ottoman dominions, in conformity with the provisions of said treaty and of this Act, by the Minister of the United States, and the consuls of the United States [appointed] to reside therein, who are hereby *ex officio* invested with the powers herein conferred upon the Minister and consuls in China, for the purposes above expressed, so far as regards the punishment of crime, and also for the exercise of jurisdiction in civil cases wherein the same is permitted by the laws of Turkey, or its usages in its intercourse with the Franks or other foreign Christian nations.

Definition of the words *Minister* and *Consul*. Duties of consul at the capital in absence of minister.

SEC. 22. *And be it further enacted*, That the word *Minister*, when used in this Act, shall be understood to mean the person

invested with, and exercising, the principal diplomatic functions in each of the countries mentioned in the first section of this Act. The word *Consul* shall be understood to mean any person invested by the United States with, and exercising the functions of consul-general, vice-consul-general, consul, or vice-consul, in any of the countries herein named. And if at any time there be no Minister of the United States in either of the countries hereinbefore mentioned, the judicial duties which are imposed by this Act upon the Minister, shall devolve upon the consul-general, or consul residing at the capital of the country, who is hereby authorized and required to discharge the same.

Such officers to be responsible to the United States.

SEC. 23. *And be it further enacted*, That all such officers shall be responsible for their conduct to the United States and to the laws thereof, not only as diplomatic or consular functionaries, respectively, but as judicial officers, when they perform judicial duties, and shall be held liable for all negligencies and misconduct as public officers.

Capital cases to be tried before the Minister. Foreign enlistment can be forcibly prevented.

SEC. 24. *And be it further enacted*, That capital cases for murder, or insurrection against the government of either of the countries hereinbefore mentioned, by citizens of the United States, or for offenses against the public peace, amounting to felony under the laws of the United States, may be tried before the Minister of the United States in the country where the offense is committed, if allowed jurisdiction; and it shall be competent for each of the said Ministers to issue all manner of writs, to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries, to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he may carry out this power by a resort to such force as may at the time be within his reach, belonging to the United States.

Salary, fees, and duty of Marshals in the four countries; they are to give bonds approved by Secretary of State; suits against the Marshals, and appointment of special Marshals.

SEC. 25. *And be it further enacted*, That the President be, and he is hereby, authorized, to appoint *Marshals* for such of the consular courts in the said countries as he may think proper, not to exceed seven in number, namely, one in Japan, four in China, one in Siam, and one in Turkey, who shall each receive an annual salary of one thousand dollars per annum, in addition to the fees allowed by the regulations of the said Ministers, respectively, in the said countries; and it shall be the duty of the said marshals, respectively, to execute all process issued by the Minister of the United States in the said countries, respectively, or by the consul at the port at which they reside, and to make due return of the same to the officer by whom the same was issued, and to conform, in all respects, to the regulations prescribed by the said Ministers, respectively, in regard to their duties. And the said marshals shall give bonds for the faithful performance of the duties of the office, before entering upon the same, which bond shall be in a penal sum, not to exceed ten thousand dollars, with two sureties to be approved by the Secretary of State of the United States; and the said bond shall be transmitted to the Secretary of the Treasury, and a certified copy thereof be lodged in the office of the Minister. And in case any person aggrieved by the misconduct of any of the said marshals, should desire to bring suit upon any of the said bonds, it shall be the duty of the Secretary of the Treasury, or the Minister having custody of a copy of the same, to furnish the person so applying with a certified copy thereof, upon which copy so furnished and certified, suit may be brought and prosecuted with the same effect as could be done upon the original: *Provided*, that upon a plea of *non est factum* verified upon oath, or any other good cause shown, the court, or the consul, or Minister trying the cause may require the original to be produced; and when so required, it shall be the duty of the Secretary of the Treasury to forward the original bond to the court, or consul, or Minister requiring the same:

And provided further, that before a copy of any such bond shall be furnished for suit, it shall be the duty of the Secretary of the Treasury, or the Minister to whom the application is made, to require *prima facie* proof, to be judged of by the Secretary of the Treasury or the Minister having charge of the copy, that there is probable cause of action against the marshal making the bond: *And provided further*, that all rules, orders, writs, and processes of every kind which are intended to operate or to be enforced against any of the said marshals, in any of the countries named in this Act, shall be directed to and executed by such person as may be appointed for that purpose by the Minister or consul issuing the same.

Rent of prisons to be allowed, and wages of their keepers; number and distribution of prisons.

SEC. 26. *And be it further enacted*, That the President be, and is hereby authorized to allow in the adjustment of the accounts of each of the said Ministers or consuls, the actual expenses of the rent of suitable buildings, or parts of buildings to be used as prisons for American convicts in the said countries, not to exceed in any case the rate of six hundred dollars a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed in any case, the sum of eight hundred dollars per annum; and provided that no more than one prison shall be hired in Japan, four in China, one in Turkey, and one in Siam, at such port or ports as the Minister, with the sanction of the President, may designate.

Jurisdiction of Minister is appellate, except when the consul is a party.

SEC. 27. *And be it further enacted*, That the jurisdiction of the respective Ministers in the countries hereinbefore named, where the same is allowed by treaty, in all matters of civil redress or of crimes, except in the cases mentioned in the twenty-fourth section, shall be appellate only, and be exercised wherever in the said countries they may be, respectively, except also in cases where a consular officer shall happen to be interested either as party or witness, in which case original jurisdiction is vested in the said Ministers, respectively.

Suits and disputes in Persia. Duty of consuls and intermediation of Minister in disputes.

SEC. 28. *And be it further enacted*, That the provisions of this Act be, and the same are hereby, extended to Persia in respect to all suits and disputes, which may arise between citizens of the United States therein; and the Minister and consuls who may be appointed to reside in Persia are hereby invested, in relation to the said suits and disputes, with such powers as are by this Act conferred upon the Minister and consuls in China. And all suits and disputes arising in Persia between Persian subjects and citizens of the United States, shall be carried before the Persian tribunal to which such matters are usually referred, at the place where a consul or agent of the United States may reside, and shall be discussed and decided according to equity, in presence of an employé of the consul or agent of the United States; and it shall be the duty of the consular officer to attend the trial in person, and see that justice is administered. And all suits and disputes occurring in Persia between the citizens of the United States, and the subjects of other foreign powers, shall be tried and adjudicated by the intermediation of their respective ministers or consuls, in accordance with such regulations as shall be mutually agreed upon by the Minister of the United States for the time being, and the Ministers of such foreign powers, respectively, which regulations shall, from time to time, be submitted to the Secretary of State of the United States.

Jurisdiction over American citizens in the Barbary States.

SEC. 29. *And be it further enacted*, That the provisions of this Act, so far as the same are in conformity with the stipulations in the existing treaties between the United States and Tripoli, Tunis, Morocco, and Muscat, respectively, shall extend to those countries, and shall be executed in conformity with the provisions of the said treaties, and of the provisions of this Act, by the consuls appointed by the United States to reside therein, who are hereby *ex officio* invested with the powers herein delegated to the Ministers and consuls of the United States appointed to reside in the countries named in the first

section of this Act, so far as the same can be exercised under the provisions of treaties between the United States and the several countries mentioned in this section, and in accordance with the usages of the said countries in their intercourse with the Franks or other foreign Christian nations.

Jurisdiction of Consuls & commercial agents in certain islands and uncivilized countries.

SEC. 30. *And be it further enacted*, That the consuls and commercial agents of the United States at islands or in countries not inhabited by any civilized people, or recognized by any treaty with the United States, be, and the same are hereby authorized to try, hear, and determine all cases in regard to civil rights, whether of person or property, where the real debt and damages do not exceed the sum of one thousand dollars, exclusive of costs; and upon full hearing of the allegations and evidence of both parties to give judgment according to the laws of the United States, and according to the equity and right of the matter, in the same manner as justices of the peace are now authorized and empowered where the United States have exclusive jurisdiction. And the said consuls and commercial agents, respectively, are hereby invested with the powers conferred by the provisions of the seventh and eighth sections of this Act for trial of offenses or misdemeanors.

Marriage by a consular officer, who shall give the parties a certificate, and send one to the Secretary of State.

SEC. 31. *And be it further enacted*, That all marriages in the presence of any consular officer in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall have the same force and effect, and shall be valid to all intents and purposes, as if the said marriage had been solemnized within the United States. And in all cases of marriage before any consular officer, the said consular officer, shall give to each of the parties a certificate of such marriage, and shall also send a certificate thereof to the Department of State, there to be kept; which certificate shall specify the names of the parties, their ages, places of birth, and residence.

Repealing section.

SEC. 32. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this Act shall be, and the same are hereby, repealed.

Act when to take effect.

SEC. 33. *And be it further enacted*, That this Act shall take effect on the first day of July, eighteen hundred and sixty.

Approved June 22d, 1861.

OPINION OF THE ATTORNEY GENERAL

CONCERNING

THE JUDICIAL POWERS OF THE COMMISSIONER OR MINISTER AND OF CONSULS OF THE UNITED STATES IN TURKEY AND CHINA.

DEPARTMENT OF STATE,
October 8, 1855.

THE following opinion of the Attorney General, on the judicial authority of the commissioner or minister, and of consuls of the United States in China and Turkey, is published for their instruction.

ATTORNEY GENERAL'S OFFICE,
September 19, 1855.

SIR: Your communication of the 13th of June calls for my opinion as to certain points in the judicial jurisdiction of the commissioner and consuls of the United States in China. My reply has been delayed for the purpose of conference with Mr. McLane, the late, and Mr. Parker, the present, commissioner. I now proceed to state the conclusions to which reflection has brought me.

That jurisdiction, so far as regards the forms and the manner of its exercise, is regulated by the act of August 11, 1848, which purports to have for its object to carry into effect certain provisions, in this relation, contained in the respective treaties between the United States and China, and the United States and the Ottoman Porte. (ix Stat. at Large, p. 276.)

This Act, consisting of twenty-four sections, is, of course, to be considered as a whole; and anything obscure in one part of it is to be elucidated by reference to other parts. It is, avowedly, based on the two treaties in question, and especially that with China, and is to be construed in subordination to that and to the constitution. In substance, it accepts and gives actual form to those stipulations of treaty, which confer on all citizens of the United States the rights of exterritoriality in China and Turkey.

The legal rationale of the treaty stipulations as to China, with which we are now chiefly concerned, and their relation to the legislative authority of the United States, are explained in the following dispatch of the minister who negotiated the treaty:—

"I entered China with the formed *general* conviction that the United States ought not to concede to any foreign state, under any

circumstances, jurisdiction over the life and liberty of a citizen of the United States, unless that foreign state be of our own family of nations,—in a word, a Christian state.

"The states of Christendom are bound together by treaties, which confer mutual rights and prescribe reciprocal obligations. They acknowledge the authority of certain maxims and usages, received among them by common consent, and called the law of nations; but which, not being fully acknowledged and observed by the Mohammedan or pagan states, which occupy the greater part of the globe, is, *in fact*, only the international law of Christendom. Above all, the states of Christendom have a common origin, a common religion, a common intellectuality; associated by common ties, which each permits to the subjects of the other in time of peace, ample means of access to its dominions for the purpose of trade, full right to reside therein, to transmit letters by its mails, to travel in its interior at pleasure, using the highways, canals, stage-coaches, steamboats, and railroads of the country as freely as the native inhabitants. And they hold a regular and systematic intercourse as governments, by means of diplomatic agents of each residing in the courts of the others, respectively. All these facts impart to the states of Christendom many of the qualities of one confederated republic.

"How different is the condition of things out of the limits of Christendom! From the greater part of Asia and Africa, individual Christians are utterly excluded, either by the sanguinary barbarism of the inhabitants, or by their phrensied bigotry, or by the narrow-minded policy of their governments. To their courts, the ministers of Christian governments have no means of access except by force, and at the head of fleets and armies. As between them and us, there is no community of ideas, no common law of nations, no interchange of good offices; and it is only during the present generation, that treaties, most of them imposed by force of arms or by terror, have begun to bring down the great Mohammedan and pagan governments into a state of inchoate peaceful association with Christendom.

"To none of the governments of this character, as it seemed to me, was it safe to commit the lives and liberties of citizens of the United States.

"In our treaties with the Barbary states, with Turkey, and with Muscat, I had the precedent of the assertion, on our part, of more or less of exclusion of the local jurisdiction, in conformity with the usage, as it is expressed in one of them, observed in regard to the subjects of other Christian states.

"Mr. Urquhart thinks these concessions have not been wise on the part of the Mohammedan states. It may be so for them; but it will be time enough for them to obtain jurisdiction over Christian foreigners, when these last can visit Mecca, Damascus, or Fez, as safely and freely as they do Rome and Paris, and when submission to the local jurisdiction becomes reciprocal.

"Owing to the close association of the nations of Christendom, and the right their people mutually enjoy and exercise, of free entry into each other's country, there is reciprocity in the recognition of the local jurisdiction. Not so in the case of the great Moslem or pagan states of Asia and Africa, whose subjects do not generally

frequent Europe and America, either for trade, instruction, or friendship. In China, I found that Great Britain had stipulated for the absolute exemption of her subjects from the jurisdiction of the empire; while the Portuguese attained the same object through their own local jurisdiction at Macao. * *

"I deemed it, therefore, my duty, for all the reasons assigned, to assert a similar exemption on behalf of citizens of the United States. This exemption is agreed to in terms by the letter of the treaty of Wánghiá. And it was fully admitted by the Chinese, in the correspondence, which occurred contemporaneously with the negotiation of the treaty, on occasion of the death of Sü Aman. By that treaty, thus construed, the laws of the Union follow its citizens, and its banner protects them, even within the domain of the Chinese empire.

"The treaties of the United States with the Barbary powers and with Muscat, confer judicial functions on our consuls in those countries, and the treaty with Turkey places the same authority in the hands of the minister or consul, as the substitute for the local jurisdiction, which, in each case of controversy, would control it if it arose in Europe or America. These treaties are in this respect accordant with general usage, and with what I conceive to be the principles of the law of nations in relation to the non-christian powers.

"In extending these principles to our intercourse with China, seeing that I have obtained the concession of absolute and unqualified ex-territoriality, I considered it well to use in the treaty terms of such generality, in describing the substitute-jurisdiction, as, while they hold unimpaired the customary or law-of-nation's jurisdiction, do also leave to Congress the full and complete direction to define, if it please to do so, what officers, with what powers, and in what form of law, shall be the instruments for the protection and regulation of the citizens of the United States.

"And it only remains, in case the treaty shall be ratified, to adopt such legislative provisions as the wisdom of the President and of Congress may desire or approve, to give effect to the concessions which the Chinese government has made in this matter, and which seem to me so important in principle, and so material to the honor and interests of the United States." (Mr. Cushing to Mr. Calhoun, September 29, 1844. MS., State Dept.)

This anticipated dependence of the Act on the treaty is plainly expressed by it, in so far as regards the *civil* jurisdiction of the commissioner and consuls, when it says, "Which jurisdiction shall embrace all controversies between citizens of the United States or others provided for by said treaty." (Sec. 3.) And in the text of the Act, as well as its title, it purports "to carry into effect," or into "full effect," the provisions of the treaty.

The *criminal* jurisdiction conferred by the act is general in terms, without, however, as we shall see hereafter, overstepping the treaty. Whether the civil jurisdiction is *broader* than that of the treaty, is to be decided by its enactments. I do not perceive any provision of the act, in this respect, which goes beyond the treaty. Any provision, to have such effect, must be affirmative and reasonably explicit; because the tribunals, constituted by the act as well as the treaty, are

special ones, having limited jurisdiction, namely, that which is conferred by treaty or statute. I repeat, that nothing appears, in the course of the act, capable of imparting jurisdiction beyond the persons and predicaments provided for by the treaty stipulations.

Hence, incontestably, in exploring the intent of the statute, we must be careful at no time to lose sight of the provisions of the treaty, at least in the questions of jurisdiction. Let us now trace, through the treaty and statute, the persons who are to exercise this jurisdiction, the forms of its exercise, the laws it is to administer, and the persons and the conditions of its application.

"For the superintendence and regulation of the concerns of the citizens of the United States doing business at the said five ports" [of China], says the treaty, "the government of the United States may appoint consuls, or other officers, at the same, who shall be duly recognised as such by the officers of the Chinese government." (Art. IV.) After which it proceeds:—

"All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction, and regulated by *the authorities*, of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government, shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China." (Art. XXV.)

"And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction." (Art. XXIV.)

Finally, in regard to crimes, it is agreed that—

"Citizens of the United States, who may commit any crime in China, shall be subject to be tried and punished only by the consul, or other public functionary of the United States, thereto authorized according to the laws of the United States." (Art. XXI.—See viii Stat. at Large, pp. 592, 597.)

On attentive consideration of the provisions, it will be seen that they confer on citizens of the United States in China unqualified and absolute ex-territoriality in all *criminal* matters; and that the sole jurisdiction of the United States over its citizens in China is plainly perfect in terms, except in the following cases:—

1. Where, in a matter of civil right, it involves controversy between a Chinese and an American, then the authorities of the two governments are to have *concerted* action.

2. Where it involves controversy between an American and some person other than Chinese, as English or French for example, then its adjustment is to be regulated by the international relations of the United States and of Great Britain or France.

3. Whether any of the provisions quoted apply to a case of civil right in which some *government* is a party on the one side, and a citizen of the United States on the other, is a question to be considered more particularly in the sequel.

In our treaty with the Ottoman Porte, the stipulations of ex-territoriality are less explicit. In *terms*, it seems to be imperfect; but, interjecting into each stipulation its true construction, it will be seen that, so far as they go, they accomplish the object as follows:

"If litigations and disputes arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard nor shall judgment be pronounced unless the American dragoman be present. Causes [between subjects of the Porte and citizens of the United States] in which the sum [in controversy] may exceed five hundred piastres, shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, [or other affairs in the Turkish empire, including the countries subject to its suzerainty,] and not being charged or convicted of any crime or offense, shall not be molested [either by acts of violence, or by any claim or pretense of local jurisdiction]; and even when they may have committed some offense, they shall not be arrested or put in prison by the local authorities, but they shall be tried by their minister or consul, and punished according to their offense, following, in this respect, the usage observed towards other Franks [that is, tried and punished by the authorities and the laws of the United States]." (Art. IV.—viii Stat. at Large, p. 409.)

In order to execute these treaties, — to carry the laws of the United States into Turkey and China, — to have our territorial jurisdiction follow our people and our flag into those empires,—persons clothed with lawful authority are the necessary instruments. In the treaty with Turkey they are spoken of as the "minister or consul" of the United States; in that with China, as "consuls or other officers," the "consul or other public functionary," and "the authorities" of the United States. Then comes in the statute, which provides for the exercise of judicial power over the citizens of the United States in the cases which it defines, by "the commissioner and consuls of the United States duly appointed to reside in China" (sec. 1); and by "the minister of the United States and the consuls appointed by the United States to reside" in Turkey (sec. 22): it being provided that the term "commissioner" is intended for "the person vested with the powers of chief diplomatic functionary of the United States," and the term "consul" for "any person vested by the United States with, and exercising, the consular authority," in Turkey or China.

It is observable that the statute provides in terms for the exercise of judicial powers by the ministers and consuls in Turkey only "so far as regards the punishment of crime" (sec. 22). I think this is a defect, if not oversight, in the Act. It leaves all questions of civil jurisdiction to the vagueness of the general analogies of public law as applied to Franks in the Levant. What is to follow, therefore, is only in part applicable to Turkey, and will be stated mainly as affecting China. (Mr. Toucey's Opinion, Jan 31, 1849; ed. 1851, p. 2136.

In thus retaining jurisdiction of our citizens in China, and providing persons to exercise it, we could not rely upon the law of nations exclusively, nor upon usages, or a customary local code applicable to

the emergency, such as exists in the Levant. Accordingly, the statute contains the following important provision :—

"That such jurisdiction in criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute said treaty, extended over all citizens of the United States in China, (and over all others to the extent that the terms of the treaty justify or require,) so far as such laws are suitable to carry said treaty into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law shall be extended in like manner over such citizens and others in China; and if defects still remain to be supplied, and neither the common law nor the statutes of the United States furnish appropriate and suitable remedies, the commissioner shall, by decrees and regulations, which shall have the force of law, supply such defects and deficiencies."

The system of law is composed, therefore, of —

1. The laws of the United States, comprehending the constitution, treaties, acts of Congress, equity and admiralty law, and the law of nations, public and private, as administered by the Supreme Court, and circuit and district courts of the United States, and, in certain cases, regulations of the executive departments.

2. "The common law." In this respect, the statute furnishes a code of laws for the great mass of civil or municipal duties, rights, and relations of men, such as, within the United States, are of the resort of the courts of the several States.

Some general code in these respects became necessary, because the law of the United States,—that is, the federal legislation,—does not include these matters, and, of itself, would be of no avail towards determining any of the questions of property, succession, or contract, which constitute the staple matter of ordinary life.

For such of the States as were founded in whole or chief part by colonists from Great Britain and Ireland, or their descendants, the law of England, as it existed in each of those States at the time of their separation from Great Britain, with such modifications as that law had undergone by the operation of colonial adjudication, legislation, or usage, became the common law of such independent States.

Meantime, in addition to many changes, differing among themselves, which the common law underwent in each of the colonies before it became a State, that common law has been yet more largely changed by the legislation and judicial construction of each of the States.

Hence, it was not enough to enact that the common law should intervene to supply, in China, deficiencies in the law of the United States. For the question would be sure to arise, What common law? The common law of England at the time when the British colonies were transmuted into independent republican States? Or the common law of Massachusetts? Or that of New York, or Pennsylvania, or Virginia? For all these are distinct, and in many important respects diverse, "common law." To dispose of this difficulty, the statute went one step further, and enacted that —

3. "Decrees and regulations may be made from time to time by the commissioner, which shall have the force of law, and supply any defects or deficiencies in the common law and the laws of the United States."

This power of supplementary decree or regulation serves to provide for many cases of criminality, which neither federal statutes nor the common law would cover.

In addition to which, it is enacted that the commissioner, with the advice of the several consuls, shall prescribe the forms of processes to be issued, the mode of executing the same, the form of oaths, the costs and fees to be allowed and paid; and generally, to make all such decrees, regulations, and orders, under the act, as the exigency may demand, which shall be "binding and obligatory until annulled or modified by Congress." (Sec. 5.)

In certain respects, therefore, the commissioner *legislates* for citizens of the United States in China; it being required, meanwhile, that such "regulations, orders, and decrees," as he may make in the premises, shall be transmitted "to the President, to be laid before Congress for its revision." (Sec. 6.)

The statute then proceeds to describe in detail the manner in which the commissioner and the consuls are to administer law in China.

First, it is enacted that said "public functionaries" are empowered "to arraign and try," in a certain manner, all citizens of the United States "charged with offenses against law," which shall be committed in China, and upon conviction, to sentence such offenders; and to issue, "each of them," such processes as are necessary to carry this authority into execution; and secondly, that, in regard to civil rights, whether of person or property, said functionaries are "vested with all the judicial authority necessary to execute the provisions of the said treaty." (Secs. 2, 3.)

In regard to criminal matters, each consul, within the limits of his consular circumscription, is empowered, upon personal knowledge, belief, complaint, or information in writing, to cause the arrest of any citizen of the United States charged with the commission of crime in China, to try the offender, and to punish by fine or imprisonment, under the following conditions:—

In all cases where the fine does not exceed one hundred dollars, or the imprisonment sixty days, the consul may, if he see fit, hear and decide alone, and by his own mere authority. (Secs. 7, 8.)

In all cases where the fine is more than one hundred dollars, but not more than five hundred, or the imprisonment more than sixty days, but not more than ninety, the consul may hear and decide alone, but subject to an appeal to the commissioner. (Sec. 9.)

In all the foregoing cases, if the consul see fit, and in all cases of higher punishment, of necessity, he will summon one or more citizens of the United States, not exceeding four, to sit with him in the trial. Each of such assessors shall enter and sign a record of his opinion in the case, which however, shall be decided still by the consul. If he and his assessors concur in opinion, the decision is final; but if they differ, the case, with the record and all the evidence, shall be referred to the commissioner, who may either determine it, or, if he choose,

remit the case with instructions to the consul for further proceedings. (Sec. 10.)

In capital cases, which, as enumerated by the Act, are "murder, insurrection, or rebellion against the Chinese government with intent to subvert the same," the provision is, that the consul must always proceed with four assessors; he and they must all concur in opinion to produce conviction, and the conviction is invalid unless approved by the commissioner; who, if he approve it, is either to issue a warrant of execution, or postpone the same, or in his discretion, submit the case to the President of the United States for pardon. (Secs. 15, 16.)

In regard to civil matters, the provision is, that, in "all civil cases under said treaty," the consuls have jurisdiction, each within his consular circumscription, to try of himself and decide finally, any controversy where the damage demanded does not exceed five hundred dollars. If it exceed five hundred dollars, then of necessity, and in other cases if the consul see fit, he is to summon to his aid not less than two, nor more than three, citizens of the United States as assessors, who shall with him hear the case. If the associates concur in opinion with the consul, his decision is final; but if they differ with him, their opinions are to be noted on the record, and either party may appeal from his decision to the commissioner. (Sec. 11.)

The commissioner is fully authorized to hear and decide all cases, which lawfully reach him under the provisions of the act, and "to decide finally any case upon the evidence which comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby; and he is empowered to prescribe rules upon which new trials may be granted, either by the consuls or by himself, if asked for upon justifiable grounds." (Sec. 13.)

Although it is nowhere said by the statute, in so many words, that the judicial authority of the commissioner in the trial of the above described cases, civil or criminal, is appellate only, yet such appears to me to be its true legal intendment. No original jurisdiction in these two classes of cases is given to him in express terms by the statute. It is all conferred in express terms on the consuls. In capital cases, it is plainly enacted that the consul and his assistants convict, and the "commissioner approves the conviction," the previous conviction being essential, and approval or disapproval being in the nature of things a separate act. In all other criminal cases, and in all the civil cases mentioned, the matter comes to the commissioner by appeal, or by certificate of difference of opinion between the consul and his assessors; and the commissioner decides upon the evidence "which comes up," that is, from the consul, or upon further hearing of the parties, as he shall determine. All these are the incidents and the *indicia* of appellate, as distinguished from original, jurisdiction.

Moreover, it seems fitting, and in the analogy of other judicial proceedings, that in ordinary matters, an appellate authority should exist; which would not be the case here, if the commissioner had, in all things, original jurisdiction, concurrent with that of the consuls; and this anomaly would be the greater in the matter, in consideration that the statute gives no assessors to the commissioner.

I think it is the theory of the statute, and a good one, to give to the commissioner, in ordinary judicial matters, at common law, only a regulative, appellate, and superintending authority, devolving the original jurisdiction in such cases upon the resident consuls; that condition of things being altogether in harmony with their diplomatic relation to one another and to the government. (Mr. Marshall to Mr. Marcy, Dec. 8, 1853. Ex. Doc. 33d Cong., 1st Ses., No. 123, p. 334.)

No apparent inconvenience attaches to this conclusion, except in the contingency of the temporary vacancy of a consulate. I think in such case the commissioner ought to have, if he has not already, authority to appoint an acting consul. (Ibid, p. 372.)

But the criminal and civil cases, which have thus far been the subject of consideration, do by no means cover the field of judicial authority at common law, still less that of such authority under the laws of the United States, still less of that which may be comprehended by regulations adopted by the commissioner, or by the commissioner and the consuls, and having "the force of law," to supply any defects or deficiencies in the common law and the laws of the United States. It is manifest that the terms of description, contained in the statute, embrace all possible jurisprudence, which does or may exist, compatibly with the organic principles of constitutional law, which govern, and at the same time guard, the rights and the duties of citizens of the United States.

Leaving out of consideration all criminal matters, that is, treating them as fully disposed of, it becomes material to inquire how matters not criminal, and not included in the appealable civil cases, are to be dealt with as between the commissioner and the consuls.

The statute-provision as to the trial of civil "cases" is, that "the consuls aforesaid, and each of them, at the port for which he is appointed, shall have jurisdiction, as is herein provided, in all civil cases arising under said treaty, wherein *the damage demanded* does not exceed five hundred dollars," in which cases the consular decision may be final; "but if in his judgment any case involves legal perplexities, and assistance will be useful, or if *the damage demanded* exceeds five hundred dollars," then he must have assessors, and his decision is subject, in case of difference of opinion, to an appeal to the commissioner. (Sec. 11.)

Now, there are processes which do not involve any question of "damages" whatever, but which are nevertheless of primary importance and utility; such as the writ of *habeas corpus*.

Other cases of controversy at law exist, which concern property, but in which no question of mere damage is involved, unless incidentally; such as many suits *in rem*, and many others *de re*.

There is another class of cases of property, in which no damages are demanded, but equitable relief only; such as most matters in chancery.

There is another class of processes, which have for their object to enforce or to protect rights in cases already *sub judice* otherwise; such as writs of mandamus, supersedeas, and prohibition.

Finally, there is a vast body of justiciable rights, to which the phrase of "damages demanded" can by no possibility apply, being questions of personal right, of the domestic relations, of inheritance,

or of testamentary disposition. This includes cases of copartnership, or other joint interest in real or personal estate, of insolvency, of divorce, of alimony, of wills, and of intestate successions.

As to the distribution of all these matters between the commissioner and the consuls, the statute is absolutely silent; and that distribution is to be made by regulation, in subordination always to other specific rules of law.

Therefore, it is, that, in several provisions of the statute, jurisdiction is conferred in general terms on both the commissioner and the consuls (secs. 1, 2, 3); and that a general power to issue all needful processes, as well as to make regulation of all processes, is conferred on the commissioner (secs. 5, 13). These general powers, we have seen, are defined and limited as to *certain* "civil cases" in other parts of the statute, which limitation depends on the nature of the case, as indicated by the question of "damages."

The same general powers are also limited more or less in the sense of locality; for it is enacted, that "the said functionaries," that is, the commissioner and the consuls, being "[in]vested with all the judicial authority necessary to execute the provisions" of the treaty, "shall entertain jurisdiction in matters of *contract* at the port where, or nearest to which, the contract was made, or at which, or nearest to which, it was to be executed; and in all other matters, at the port where, or nearest to which, the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained, — any such port abovenamed being always one of the five mentioned in the treaty." (Sec. 3.)

These conditions of locality are to be applied, so far as they may be in their nature applicable, to all cases. To many cases of contract and of damage sustained, the condition of one of the five ports is inapplicable by its very nature. Thus, it may be the case of a contract made and to be executed, or of damage sustained, in Europe or in America, the parties being *now* in China.

And the condition does not apply in terms to anything but matters of "contract" or "damage sustained." What shall be said, if it be a question of probate of will, of intestacy, or of divorce?

Nor does the other form of the condition,—"the port where, or nearest to which, the cause of controversy arose,"—satisfy all the *desiderata* of the subject. There may be no "controversy," or "cause of controversy," in the matter, though it requires judicial determination, as the probate of a will, which is at once the source and the authentication of title. And in many matters of "controversy," it may be difficult, if not impossible, to show where the "*cause* of controversy" arose.

But the statute does not undertake or profess to provide specially for all questions, leaving many to the regulation of the commissioner.

Where the question of place of judgment is determined by the statute, of course that controls the commissioner as well as the consuls. In all other cases, the rules and analogies of law on the subject of jurisdiction, having reference to the *situs* of the thing, or the residence or commorancy of parties, afford a sufficient guide to the regulative discretion of the commissioner.

Whatever is determined as to the *person* who shall exercise jurisdiction, must of course be conciliated with what shall be determined as to the *place* of jurisdiction.

Independently of this, it seems to me that the commissioner and the consuls should make provision, in the manner indicated by the statute, that is, by separate or by joint regulation, (secs. 4, 5,) concerning all those things, the jurisdiction of which it leaves indeterminate, and therefore subject to regulation.

Matters of insolvency, intestacy, probate of will, divorce, division or regulation of copartnership or other common interests, habeas corpus, specific performance, trust, discovery, seamen's wages, charter-party, bottomry, and other matters of equity, admiralty, or ecclesiastical law, are, for the most part, of a local nature, and requiring prompt interlocutory action of judicial authority; and, therefore, seem to be fit subjects for the original jurisdiction of the consuls, with proper regulations for appeal to the commissioner.

On the other hand, some processes, like mandamus, prohibition, supersedeas, are of so high a nature, that, like review, they seem appropriate to the jurisdiction of the commissioner. The same observation may, perhaps, apply to some processes in equity. Even as to all these matters, which the statute leaves undetermined, the safer course appears to me to be to adhere, so far as may be, to the spirit of the law, which makes the commissioner the appellate supervisor of the judicial acts of the consuls.

Inquiry has arisen as to whether a vice-consul has power to act judicially in China. It has been supposed that this is a question of the delegation of judicial power by a consular judge. It rather seems to be the question of how a vice-consul may be lawfully appointed.

The statute expressly says, that "the word *commissioner*, when used in this act, shall be understood to mean the person [in]vested with, and exercising, the principal diplomatic functions in China; and the word *minister* as meaning the person [in]vested with the powers of chief diplomatic functionary of the United States in Turkey. The word *consul* shall be understood to mean any person [in]vested by the United States with, and exercising, the consular authority in any of the five ports of China named in the treaty, or any port in Turkey." (Sec. 23.) The Act then proceeds to say that "all such officers shall be responsible to the United States and to the laws thereof, not as diplomatic functionaries and commercial functionaries, but as judicial officers, *when they perform judicial duties*" (Sec. 24.)

Now, it has never been doubted that the secretary of legation in China, or any other acting chargé-d'affaires, could officiate as judge in virtue of treaty and statute.

And as to consuls, what possible significancy has the statute, unless it be that vice-consuls may so act, when *duly appointed* by the United States? In truth, the statute, with great propriety, employs the word *consul* as the *nomen generalissimum* for any person lawfully invested with consular authority.

If, therefore, the vice-consul have this power, it will not be authority delegated in the sense of the objection, that is, the case of a judicial consul delegating his judicial authority; but, on the contrary, it is the case of power conferred by the statute.

Moreover, the objection assumes that the vice-consul is appointed by the consul. That is an error. The vice-consul is in law appointed by the Secretary of State, or by the President, just as inspectors of customs are *in law* appointed by the Secretary of the Treasury (or the President). To be sure, the consul in practice frequently nominates a vice-consul to the Secretary of State, as the collector of customs nominates an inspector to the Secretary of the Treasury. (Mr. Legaré's Opinions, March 24, 1843, pp. 1577, 1579; United States *vs.* Bachelder, ii Gallison, p. 15; United States *vs.* Wood, ibid, p. 361.)

Whether nominated in the first instance by the commissioner or by the consul, the vice-consul, when approved by the Secretary of State, is to be deemed a "person [in]vested by the United States with, and exercising, the consular authority." And the approval may, perhaps, be considered as covering the action of the vice-consul under his existing appointment by the commissioner.

Suggestion is made of some other matters of doubt in the judicial power of the commissioner and the consuls, which requires us to go back to the treaty, and compare certain of its provisions with those of the statute. These doubtful matters are the three cases specified on a pevious page, in which question might arise whether the ex-territoriality of Americans in China is perfect. It is, in truth, however, in each of those cases, a question, not whether they enjoy ex-territoriality there so far as that is a privilege or a right, but whether it also attaches to them as an obligation. The laws of their own country accompany them to China, in so far as regards any criminal act whatsoever which they may commit, or be charged with committing, there. The same laws accompany them, in so far as regards any rights they may possess relatively to any other Americans; and so also in regard to any obligations to which they may be subject, relatively to any other Americans. But, how is it, in China, with regard to the civil rights and duties of Americans there, relatively to persons there not Americans?

As among the nations of Christendom on their own soil, we know that alien friends may sue and be sued in the courts of any country. An American in France may recover his debt of a Frenchman; a Spaniard in the United States may recover his debt of an American. Is the same thing true, as between persons of either of those nations in China? Is it true there, as between a Chinese and an American?

To begin with the latter case. The treaty stipulates that "if controversies arise (in China) between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity by the public officers of the two nations acting in conjunction." (Art. XXIV.) The controversy shall be settled, that the treaty engages: it shall be settled conformably to justice and equity, and it shall be settled by some conjoint action of the proper officers of the respective nations. But how?

I think the answer is obvious. Before proceeding to give it, however, it may be well to anticipate an objection to what might, at first blush, appear to be an anomaly in jurisprudence. I mean the administration of law among distinct nationalities in the same place or territory, as applied to the state of things in China. In the middle age,

the fact was common, as between the co-existing nationalities, to give to distinct codes of law a personal appplication, according to nations, instead of a merely territorial force. (Cathcart's Savigny, vol. i, ch. 3.)

At the present time, we have precisely the same fact before us in British India. Europeans, when they first visited India, found a conqueror and a conquered race living together, with the law of each administered by nationalities. (Jones's Instit. Hind. Law, art. 203.) Each successive European conqueror followed more or less the same rule. (Bowyer's Pub. Law, p. 168.) The doctrine applies not only to civil rights and remedies, but also, in many respects, to crimes. (Morley, Ind Cases, int. p. 169.) And the system is now sanctioned by the statutes of the imperial government, which enact that a case of controversy between Mohammedans is to be governed by their laws and usages, and a case of controversy between Gentoos by theirs; and where it is controversy between a Mohammedan and a Gentoo, the law of the defendant's nation is to be applied to the case. (Act of Parliament, 21 George III, c. 70; and 37 George III, c. 142.) The acts of Parliament speak of *Gentoos* only in addition to Mohammedans. This word is not a name of nationality, but an English corruption of the Portuguese *gentio* (gentile). Hence, the practical construction of the expression, in the Anglo-Indian courts, is to consider "Gentoo" as comprehending all nationalities in Hindostan except Christians and Moors; and the national law of each is applied with impartiality alike to Hindus, Sikhs, Parsees, and Jews. (The Kojahs' and Memons' case, Perry's Oriental Cases, pp. 110, 124.) In the British colonies proper, as distinguished from the delusively-called possessions of the East India Company, the rule of public law is, to maintain the municipal institutions of the conquered until they be changed by the conqueror. (Burge's Com., vol. i, p. 31; Clark, Colonial Law, p. 4. See Vattel, Droit des Gens, liv. iii, ch. 12, s. 201; Calvin's case, vii Co. R., p. 176; Rex *vs.* Vaughan, vii Bur., p. 2600; Blanchard *vs.* Galdy, ii Salk, p. 411; Brief in U. S. *vs.* Ritchie, p. 5.)

In the United States the doctrine is the same. (Strother *vs.* Lucas, xii Peters, p. 436; Mitchell *vs.* the United States, ix Peters, p. 794.)

But in the British colonies proper, as well as in the states and organized territories of the United States, the law is *territorial* in its application and force, not personal,—that is, it applies to all persons, of whatever nation, within the ceded or conquered territory. It will suffice to elucidate this by examples drawn from our own public law. The several treaties of cession, by which foreign territory, with its inhabitants, has been transferred to the United States, are those of Louisiana; of the two Floridas, and of New Mexico and California.

Our treaty with France, for the acquisition of Louisiana, stipulates that:—

"ART. III. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime, they shall be maintained

and protected in the free enjoyment of their liberty, property, and the religion which they profess." (viii Stat. at Large, p. 202.)

Stipulations to the same effect appear in the treaty with Spain, which transferred to us the Floridas (Arts. v and vi, viii Stat. at Large, p. 356); and that with the Mexican republic, which recognized our conquest of New Mexico and California. (Art. viii, ix Stat. at Large, p. 929.)

In each of these instances, it has been adjudged, as the rule of our public law, and provided by statute, that the laws and usages of the ceded *country*, as they existed at the time of cession, continued to be the law, not only of the previous inhabitants, but of *all others* who should come to reside in it. No distinction of law was maintained in Louisiana, Florida, or California, beween the original French or Spanish inhabitants and the immigrant Anglo-Americans. The *civil* law continued to be the law of the country, until it was modified by the legislative act of the *people* of the *territory*,—that is, the new inchoate state of the American confederation,—that is, its free inhabitants, of whichever nation, acting as a political society. In what is now the State of Louisiana, for instance, the Roman, Spanish, and French laws, modified by statutes, continued to be the system of the State. (Louis. Code, arts. 36, 21.) In the territory, now State, of Missouri, when the Anglo-Americans had come to predominate in numbers, the common law was substituted for the civil, as the fundamental body of jurisprudence. (Acts of 1816 and 1825. See Brief, Ruggles *vs.* Comtesse de Tournon, p. 38.) The same thing was done by the State of California. (Act of 1850.) Thus, in each organized territory or state of the United States, there is but *one municipal code*, so far as regards all the inhabitants of the territory or state.

Nevertheless, we have, in territory of the United States unorganized, the example of law administered by nationalities in the case of the subject Indians, more especially the Choctaws, Chickasaws, and Cherokees. (Opinion, May 23, 1855. MS.) Nay, we have a striking example of the same thing, in substantial effect, in the administration of law as applied to the citizens of the United States. Every such citizen, save in the District of Columbia, is a citizen of some state, or of a territory hereafter to become a state. But, in respect of all matters of municipal resort, the several States are in the relation to one another of foreign governments. That is to say, their citizens constitute in many respects distinct and independent nationalities. In Pennsylvania, for instance, a citizen of Virginia sues, or, if there, may be sued, either in relation to a citizen of Pennsylvania, or even to another quasi-foreigner, such as a citizen of Massachusetts: all, in Pennsylvania, being thus subject to the laws and the tribunals of Pennsylvania. But, if the subject-matter be one of federal law, that, and not the law of the State, is to be applied to the case.

Moreover, each citizen of a State has open to him the federal courts in a controversy between himself and a citizen of another State, either by the transfer of his case, or by original suit in the courts of the United States. But in that event, he must go into the federal courts for the State of the *defendant*, and unless it be a question of federal rights, he must accept as the rule of decision the municipal law of that State.

I apply these doctrines of public law to citizens of the United States in their relations to persons of other nations in China.

First, as to a demand brought by a Chinese against an American. The statute provides that the consular court shall have jurisdiction of "all civil cases arising under said treaty." (Secs. 3, 11.) The controversy supposed is a civil case arising under the treaty. When it arises, "the proper officers of the two nations" will agree that the Chinese shall go into the consular court as plaintiff, and that court will take jurisdiction of the defendant as an American. Or they may enter into a general agreement, and the commissioner may provide, by a standing regulation under the statute, that the consular court shall hear and determine all private claims which Chinese may prefer against Americans.

Confirmatory of this conclusion, as also of what is hereafter to be said of the case of controversy between Americans and foreigners in China, there is in the statute a very significant expression, which assumes that the consular courts are to administer justice in some cases not confined to citizens of the United States. It extends the law, which it prescribes, to citizens of the United States and to "*all others*, to the extent that the terms of the treaty justify or require." (Sec. 34.) Among those "others" are subjects of China and of any government, who, by voluntarily making themselves parties complainant or demandant before the consular court, appeal, *pro tanto*, to the laws of the United States.

Secondly, as to a demand by an American against a Chinese: The former must, of necessity, be content with such judicial or executive action of the Chinese government in the premises, as appertains to their institutions, and as, by special application in each case, or by general application, may be required on the part of the public officers of the United States.

As to the other case, that of controversies occurring in China between citizens of the United States and subjects of any other (Christian) government, the treaty provides that the same "shall be regulated by the treaties existing between the United States and such governments, respectively, without interference on the part of China." (Art. xxv.)

Now, we have no *special* treaty with any of those governments on this point; nor is any needed, or necessarily required or intended by the stipulation under consideration. With all, we have treaties of amity, or of ordinary commercial and social intercourse; and that suffices to meet the exigency.

By the tenor of those treaties, as they are construed by the law and usage of nations, an Englishman has the right to sue a resident American, or an American a resident Englishman, as alien friend, in all places wherever, respectively, the jurisdiction of the other country exists locally, and is complete as to subject-matter, persons, and remedial forms. (Fœlix, Dr. Intern. privé, tit. xi, ch. 2.)

The jurisdiction of the United States is complete as to their citizens in China; and the jurisdiction of Great Britain is complete as to her subjects in China. That the jurisdiction, in each case, is ex-territorial, that in China it is excepted from the local territoriality, and that it is outside of the territoriality of either Great Britain or

the United States, is a fact wholly immaterial to the question. It is a question free of all doubt on principles of international right, and subject only to the single inquiry, whether the given country, each proceeding in established legal forms, by whatsoever authority such forms be established, has conferred on its courts of justice in China jurisdiction *ad hoc*, or whether that remains to be done.

Here, again, the statute is explicit and ample. It confers on the consular courts jurisdiction of "all civil cases arising under said treaty." A demand of an Englishman against an American is a civil case arising under the treaty, as we see.

Therefore, a suit may be brought by the Englishman against the American in the consular court of the United States; as undoubtedly, in the consular court of Great Britain, it may, consistently with public law, be brought by an American against an Englishman.

If the Englishman were within the territorial jurisdiction of the United States, he might sue, but would also be subject to suit, in the local courts, as the American might and would be in England. (Fœlix, ubi supra.) Nay, a suit would lie in the courts of Great Britain or the United States, between residents, both being aliens in the country. (Fœlix, ubi supra.)

In China, the relative condition of all these persons differs in this, that the local courts of each government, being ex-territorial ones, have no territorial jurisdiction, but only a jurisdiction as respects persons, namely, its own citizens or subjects. Of course, neither government can take compulsory jurisdiction there of a subject or citizen of any other; but each may act compulsorily upon its own, at the suit of another.

Perhaps neither government is under perfect obligation to do this, but it may do so in obedience to national comity; it can rightfully do so if it will; and its obligation to do so will be perfect, provided the exercise of the right be reciprocated by the other government.

One other, and a more difficult, question remains to be explored, namely, whether a foreign government can pursue a citizen of the United States for debt or damage before the consul's court in China. I put the question in the most general form, for so. in truth, it needs to be considered, although it presents itself, in your communication, as a special question of an assumed or suggested right of the government of China to sue for duties on imports or exports due, or claimed to be due, from citizens of the United States.

Here, within the territorial limits of the United States, beyond all peradventure, the Great Khan may, *for good and lawful cause*, bring suit in some proper court against a citizen of the United States.

In England, it has been held from the earliest times that a foreign prince or government may appear and prosecute suit before the courts of the realm, either at law or in equity (Calvin's case, vii Co. R., p. 30, citing xi Edw. III.)

The King of Spain has been several times a suitor in the courts of England. (Roi d'Espaigne *vs.* Pountes, Rolle's Abr. tit. Court d'Adm., E. 5; Spanish Ambassador *vs.* Pountes, i Rolle's R., p. 133; King of Spain *vs.* Hallett, i Clk. and F., p. 333, and vii Bligh, 559; King of Spain *vs.* Tacon, iv Russ., 225; King of Spain *vs.* Machado, ibid., p. 560; King of Spain *vs.* Mendizabel, cited in Col. Gov. *vs.*

Rothschild, i Sim., p. 101. See also Hallet and King of Spain, ii Bligh, N. S. p. 31.)

The Queen of Portugal has appeared occasionally. (Queen of Portugal *vs.* Glyn, vii Clk, and F, p. 466. See also Glyn *vs.* Queen of Portugal, i Younge & C., p. 644.)

The King of Hanover has also been a party, both plaintiff and defendant. (King of Hanover *vs.* Wheatly, iv Bev., p. 78; Duke of Brunswick *vs.* King of Hanover, vi Bev., p. 1.) The Republic of Columbia has been a complainant before the Vice-Chancellor (i Sim., p. 94.)

To the same effect is the doctrine of the United States. In Pennsylvania we have had the case of the King of France *vs.* Morris. (Referred to in Peter *vs.* Steel, iii Yeates, 250, 251.) In New York we have the recent case of the Republic of Mexico *vs.* Arrangoiz. (MS.) The King of Spain has appeared in the circuit court of the United States. (King of Spain *vs.* Oliver, ii Wash. C. C. R., 429.) The King of Prussia has been plaintiff in the State of Missouri. (MS.) One of the cases above cited is particularly interesting, because it is a suit by the King of Spain against a citizen of the United States for duties on imports into the port of Vera Cruz. This appears by the charge of the court on the trial of the case. In that charge, it is not intimated that the King of Spain might not well sue in our courts for duties: and the answer of the defendant consisted of other matters: such as, that the duties were not due from this defendant, but from another party; and that they had in fact been paid or adjusted in account by that other party. (King of Spain *vs.* Oliver, i Peters' C. C. R., p. 276. See also ibid., p. 217.)

While, on its face, this case goes to show that a foreign government may sue in the United States for duties, yet such conclusion must be taken with the reservation that it was a case at *nisi prius*. It is open to very serious objections, as applied to the case of a suit by the Chinese government for *duties*. That is to say, our courts are free to foreign sovereigns for many purposes; but *non constat* that they are in all cases. And among the questionable matters, are things of *political* obligation, as distinguished from municipal engagement. (Nabob of Carnatic *vs.* East India Company, i Ves., pp. 371, 388; ii Ves., p. 56.) This consideration may or may not be material to the present inquiry. At any rate, it suggests reflection as to the bearing of the treaty upon the question.

I perceive, on referring to the treaty with China, not a single word, which implies that the judicial authorities of the United States there may entertain the suit of a government or sovereign. The treaty mentions explicitly "the subjects of China," and "the subjects of other governments," and "subjects" alone, as the parties to legal controversy, in which the public officers of the United States are to intervene. But the statute, as we have already seen, is but co-extensive with the treaty, and confers jurisdiction of those controversies, whatever they may be, which the treaty contemplates as the object of legal adjudication, and no others. Of course, as it would seem, the consular courts cannot entertain a suit by the government of China.

There is another class of considerations, which is conclusive. It is, that the treaty makes full provision as to the mode of assessing

duties, and the means of securing their payment; and the provision on these points consists of political engagement. The consul of the United States is to adjust all disputes of appraisement with the Chinese superintendent of customs. (Art. XI.) That is political, not judicial, action. So, without payment of duties, the superintendent refuses to deliver a clearance, and the consul withholds the ship's papers. (Art. XXIII.) That is political action on both sides. And it is preventive action, and therefore, better than remedial. The government of the United States engages to the government of China that, until the duties be adjusted, no ship shall receive her papers; and the consul sees to this on the part, and as the officer, of the United States.

I do not mean to say that the treaty might not have stipulated a purely judicial remedy in these cases. I merely say that, in my opinion, it has not done this. It has provided other remedies, such as the high contracting parties at the time saw fit to agree to by sovereign convention. If it be desirable on either side to change the provision of the treaty in that respect, and to open the consular courts to the Chinese government for the collection of duties, and to that and all other governments, as courts within the United States are, an opportunity will be afforded during the next year, when, by the terms of the treaty, it becomes subject to revision and amendment. (Art. XXXIV.) But whether any such change be expedient or not, is a diplomatic question for the determination of the President.

The act of Congress, herein commented on, is a most important and valuable one. It made provision, however, for a description of cases, new in form at least, to the legislation of the United States, and subject, of course, to such amendment as time and experience might show to be desirable. I beg leave to call your attention to the instructive suggestions on this point, which occur in one of Mr. Marshall's dispatches. (Mr. Marshall to Mr. Marcy, December 8, 1853. (B), Ex. Doc., ubi supra, p. 331.)

Permit me to observe, in conclusion, that the transaction referred to in your note, in respect to duties claimed of citizens at Shanghai, was not judicial in its nature, either in form or in substance. It was a decision by the commissioner. There could be no judicial decision by the commissioner, except on appeal from the consular court at Shanghai. In that court, to constitute the ground-work of action by the commissioner, there must have been a trial and decision by the consul, with dissenting opinions of his assessors, certified in due course to the commissioner. None of these things appear. On the contrary, it is clear that the commissioner decided the question in his political or individual character as arbitrator between the Chinese government and the particular citizens of the United States, and the decision has validity as an arbitral award of his, not as a judicial decision of the consular court of Shanghai. (Mr. McLane to Mr. Marcy, Nov. 25th, 1854; and Exhibits, especially, Exh. F., MS. State Dept.)

I have the honor to be, very respectfully,

C. CUSHING.

Hon. W. L. MARCY,
Secretary of State.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

By authority of Congress given for the fulfillment of existing treaty stipulations between the United States of America and China, the following Regulations and Forms for the use and government of the United States Consular Courts in China, are ordered and established, in conformity to an Act of Congress hereunto prefixed, approved August 11th, 1848, entitled "An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries."

The treaty between the United States and China is to be the paramount law to the Consul, in the exercise of his judicial functions. The law of the 11th of August abovementioned, and the laws of Congress generally, so far as they are applicable, are to be strictly observed, and executed with as much promptness and impartiality as practicable.

Before entering upon the discharge of his judicial duties, the Consul will take and subscribe the following oath before some person competent to administer the same.

I, (A. B.) do solemnly swear *(or affirm)* that I will administer justice without respect to persons, and will in all things faithfully and impartially discharge all the duties incumbent upon me, as judge of a Consular Court in China, to the best of my ability; according to the constitution and laws of the United States. So help me God.

A copy of this affidavit is to be spread upon the records of the Consular Court, with the date, and the name of the person administering it. of

By the 10th, 11th, and 15th sections of the Act before referred to, it is provided, that Consuls shall summon to sit with them in the trial of certain specified causes, a citizen or citizens of the United States, not to exceed four in number, "of good repute and competent to the duty," who shall give his, or their advice and judgment, to the Consul in the case under consideration.

By the 31st section of an Act of Congress, approved February 13th, 1801, entitled "An Act to provide for the more convenient organization of the Courts of the United States;" the Consul, as judge of a Consular Court, is authorized and empowered to administer all necessary oaths and affirmations.

The following is the form of the oath to be administered by the Consul to such citizens of the United States, as he may summon to sit with him in any trial:—

You *(and each of you)* do solemnly swear that you will faithfully hear, and duly consider the testimony to be submitted in this case, wherein the United States is plaintiff, and (M. N.) is defendant, [*in civil suits*, wherein (O. P.) is plaintiff, and (R. S.) is defendant,] and a fair and impartial opinion give to this Court, in the premises, to the best of your ability. So help you God.

In cases where citizens of the United States sitting upon any trial with the Consul shall concur in his judgment, they shall sign the docket with him; and if they, or either of them, dissent from the Consul's opinions, they shall respectively enter their judgments upon the docket, and sign the same.

The amount allowed for the services of citizens associated with the Consul in trials, will be found in the annexed table of fees.

CLERKS.

Each Consul may appoint a clerk, to perform such services as shall properly appertain to the duties of a clerk to a Consular Court, who, before entering upon his said duties, shall take the following oath, which shall be administered to him by the Consul.

You do solemnly swear *(or affirm)* that you will faithfully record all the proceedings of the Consular Court of the United States at in China, and duly and promptly perform all the duties incident to that station during your continuance in office, to the best of your ability. So help you God.

The clerk will be entitled to receive for his services, fees at the rate fixed in the table hereunto annexed.

MARSHALS.

Each Consul shall be entitled to appoint a marshal, who shall perform all the executive duties enjoined upon him by the Consular Court making such appointment, and who, before entering upon the duties of his office shall give bonds to the United States in such penal sum as the Consul may direct, conditioned for the faithful performance of his duties, and the paying over to the Court without delay, any and all moneys by him collected. He shall also, before entering upon the duties of his office, take the following oath to be administered by the Consul.

You do solemnly swear *(or affirm)* that you will faithfully discharge all the duties incumbent upon you as marshal for the United States' Consular Court at in China, to the best of your ability. So help you God.

The fees to which the marshal shall be entitled for his services will be found in the table of fees annexed.

All criminal prosecutions shall be brought in the name of the *United States.* All bonds and recognizances taken in criminal proceedings shall be made payable to the United States, and if necessary sued for and collected in the name of that authority, judgment having been first rendered thereon according to equity. And all fines and forfeitures collected, shall be duly reported semiannually to the Commissioner for the time being of the United States in China.

By section 7th of the Act abovenamed, the jurisdictions of Consuls in criminal cases are concurrent over citizens of the United States in China. In all cases of

complaint made, or information filed, charging crime upon any person under the Consul's jurisdiction, such complaint or information shall be verified by affidavit, unless he has good reason to believe the same true. *For form of Warrant to arrest on a criminal charge, see Appendix, No.* 1.

Upon arraigning any person upon a criminal charge, the Consul will state to him the offense with which he stands charged, and before proceeding to his trial, if he desire a reasonable time to procure witnesses to testify in his behalf, such reasonable time may be granted if justice require it; and at the opening of the trial, the Consul will propound the question to the accused whether, to the charge against him, he pleads Guilty or Not Guilty. If the accused pleads Guilty, the Consul may examine any witnesses he produces in mitigation of his punishment, snd may also examine any witnesses in behalf of the United States to show that the offense was one of an aggravated character.

If the accused pleads Not Guilty, the Consul will proceed to examine such evidence as may be before him, allowing to the accused the privilege of cross examining the witnesses for the United States in a respectful manner, after they shall have testified in chief; and after hearing all the testimony, and carefully considering the facts presented, if the Consul should be of opinion that the accused is guilty of the offense charged, or any minor offense that may properly be included in such charge, he will proceed to assess such punishment upon him, as, according to his sense of justice under the laws of the United States, his crimes may merit.

In the trial of all criminal prosecutions, as well as civil suits, if a witness, having been duly subpœnaed, shall fail or refuse, to attend at the time and place required, the Consul may issue his writ of attachment (*see form, No.* 2), and bring such witness before him to answer for a contempt, and upon a careful hearing of his case, if justice demands it, the Consul may punish such witness by fine or imprisonment.

Under section 13th of the Act, new trials may be granted in criminal cases upon the accused filing his affidavit, therein setting forth such material facts as he believes he shall be able to prove on a rehearing of his case, or setting forth to the satisfaction of the Consul that he had exercised due diligence to obtain certain material evidence which he seeks to present at a subsequent trial; and had failed to obtain it.

In criminal cases, the costs of prosecution may be taxed up with the judgment, and collected by execution, distress, and sale, as in other cases.

The 10th section of the Act referred to, sets forth the terms and conditions upon which criminal cases may be appealed or referred to the United States Commissioner. By the 12th section of the same Act, the Consul is required to spread upon the records of his court all the testimony given in the trial of causes civil and criminal, and also to note all objections to the character or competency of testimony, with the ruling in all such cases; and in appeals, a full and complete transcript of the proceedings and testimony is to be sent up to the court of the Commissioner.

All writs and processes issuing from Consular Courts shall be attested by the seal of said Court, and the signature of the Consul.

Bail may be taken before trial and conviction in all criminal cases, except where, upon conviction, the punishment may be death. The penalty of the bail-bond so taken being always for a sum corresponding to the magnitude of the offense, taking care, however, not to demand excessive sums as penalty. *(For form of bail-bond, see Appendix, No. 3)* Or recognizances may be taken in open court of the same tenor as the bond by the parties being present, and acknowledging the same; and by spreading such recognizance upon the records of the court, which shall have the same force and effect as a bond.

OF CIVIL ACTIONS.

All civil actions shall be brought for either debt or damages. The geographical jurisdictions of the respective Consuls in civil suits is designated by the 3d section of the Act of August 11th, 1848.

In all cases where a Consul is personally interested in the event of any suit he may be called upon to try, he shall, on application of either of the parties to such suit, certify the same to the next nearest Consul, who shall take cognizance of, and try such cause, as though his jurisdiction had been original; or the Commissioner of the United States for the time being may take cognizance of such cases if they originate at the port where he is a resident.

There shall be no imprisonment for debt, unless upon due examination fraud be proved against the execution defendant, in concealing or embezzling his property, so that execution can not reach it.

In all actions of debt or for damages, the Consul shall upon the filing of any account, bill of damages, note of hand, or other evidence of debt, enter the same on his docket in due form, and if required issue summons thereon to the marshal, who shall serve the same on the debtor personally, or by a copy left at his usual place of residence; such service to be not less than three days before the day of trial *(see form of summons. No.* 4). And if the defendant be a transient person, and the Consul be of opinion that justice requires it, he may instruct the marshal to require security of the defendant for his appearance at the time and place of trial.

And the Consul, shall, upon the application of either of the parties, issue his subpœna *(for form, see No.* 5), for such witnesses as they may respectively desire; and if at the trial of any suit, the defendant having been duly summoned, and being three times severally called, shall fail to attend by himself or agent, judgment may be rendered against him by default, for such sum as justice and equity may seem to demand;

and if the plaintiff fail to attend by himself or agent, and prosecute his suit, having been notified of the time of trial, judgment may be rendered against him for such costs and charges as may be just and proper.

Upon the trial of any civil suit, both parties being present, the witness or witnesses for the plaintiff, if any, shall first testify; and after having testified in chief, may be cross examined by the defendant; and after the defendant's witnesses, if any, have testified in chief, they may in like manner be cross examined by the plaintiff.

After hearing all the testimony, and carefully considering the facts presented, the Consul will render jndgment thereon according to justice and equity.

In all civil actions, the costs are to be taxed up with, and collected in the same manner as, the judgment; but the costs may, in the first instance be demanded of, and shall be considered as due from, the party requiring any legal service of either the marshal or clerk; and all witnesses in civil cases duly subpœnaed shall be entitled to one day's pay, and their mileage in advance, if they demand it.

GRANTING NEW TRIALS.

New trials may be granted in civil suits by the party applying therefor complying with the terms and conditions mentioned for the granting of new trials in criminal prosecutions.

TERMS OF APPEAL IN CIVIL CASES.

Upon the rendering of any judgment before a Consul, either party to such judgment may appeal to the United States' Commissioner, if the appeal be justified by the provisions of the 11th section of the act authorizing Consular Courts.

And in all such cases of appeal, the appellant shall give bond to the appellee to be filed in the Court granting the appeal, in such sum as will cover the costs and damages consequent on such appeal; conditioned that he prosecute his appeal, and answer all damages

and costs if he fail to make his plea good *(see form No. 6.)* If the Consul be of opinion that justice requires that security be given by the appellant, he can vary the bond accordingly, binding all the parties thereto jointly and severally to the faithful fulfillment of its conditions.

All appeals must be demanded according to law, and within five days after the date of the judgment.

And all judgments shall be a lien on all property, real, personal, and mixed, of the judgment debtor from the date of their rendition. All judgments shall bear the same rate of interest that the obligation upon which they were rendered, was bearing at the time of entering up the judgment, not to exceed 12 per cent. per annum; and the rate of interest upon all other judgments shall be 10 per cent. per annum.

OF EXECUTIONS.

Immediately after the entering up of any judgment, execution may be issued thereon *(according to form, No. 7)*, to be levied on the goods, chattels, and effects of the execution defendant, and all goods, chattels, or effects so taken under execution shall be sold by the marshal at public auction to the highest bidder for cash: Provided that at least fifteen days' notice of the time and place of such sale shall be given, by posting up advertisements at not less than three public places contiguous to the place of sale.

All executions shall be returned to the Consular Court from which they issued within ninety days from date on which they passed into the hands of the marshal, or sooner if the money be made thereon. And executions may be renewed at the end of ninety days, if the debt, interest, and costs be not made thereon, and the Consul is of opinion that justice to all parties will thereby be promoted- Such new execution shall in all respects be governed by the same laws and regulations as the first.

All moneys received by Consuls on account of parties litigant shall be paid over on demand, to persons entitled to receive them.

By the 31st section of the Act of Congress, approved February 13th, 1801, the Consul is authorized and empowered to hold to security of the peace, and for good behavior, any citizen of the United States charged upon affidavit with a declared intention of violating the personal safety of another; provided that the affiant be the person whose personal safety is so threatened or endangered. In that case, the Consul may require the party charged, by compulsory process if necessary, to appear before him, and to give bond to the United States in such sum as in his judgment may be just and right, conditioned that the party charged shall keep the peace for a given period towards all persons, but especially towards the affiant.

ON THE FORMS OF EVIDENCE.

The form of oath for Christian witnesses has been already referred to, and will be found in the Appendix. *(See form, No. 8.)*

The Jews swear upon a manuscript copy of the Old Testament in Hebrew, and the Consul will adopt this method if such a copy of the Old Testament can be conveniently obtained; if not, he will administer the oath (in the same form as to Christian witnesses) upon the Hebrew Old Testament.

The Mohammedans swear by the Almighty upon a manuscript copy of the Koran, or a part thereof if the whole can not be had, resting on or held over their heads, saying, That as they believe the Koran to be sent down to the Mussulmen from heaven, so they, fearing its Author, will speak the truth, and nothing but the truth.

The Parsees swear by laying their hands upon the Zendavesta (or sacred book of the people), and saying, "Upon my word, upon my honor, upon my religion," or in their language words equivalent thereto; the oath should be administered by a Parsee priest, if one be convenient; if not, it can be administered by one Parsee to another. The Zendavesta being a book usually

found in the house of every Parsee, little trouble will be experienced in getting one.

As the manner of swearing the Chinese varies in different parts of the Empire, the Consul will diligently inquire for the form considered the most binding upon those about to testify, and adopt that mode; but it will be important to exercise great caution, as well as discretion, in receiving testimony of all persons influenced by neither a legal nor moral obligation; and with Chinese witnesses, it should be distinctly understood that the laws of the United States do not authorize the infliction of any corporeal punishment in order to extort the truth.

It will be the duty of the Consul, according to the spirit of the 19th and 20th sections of the Act, to encourage the settlement of all disputes and controversies by the parties themselves. This portion of the law is sufficiently explicit to render further instructions unnecessary. The 20th section also provides for the settlement of civil controversies by a reference to disinterested parties, and the Consul's attention is particularly directed to this portion of the law. A form of submission for arbitrated cases, with a form for the award is appended. *(See form, No. 9.)*

The judicial duties of the Consul are specially indicated by the 3d, 4th, 7th, 8th, 9th, 10th, 11th, 12th, 14th, 15th, 19th, and 20th sections of the law authorizing Consular Courts; to which his particular attention is directed. The following references to the laws of the United States (Little & Brown's edition), may, to some extent, be rendered applicable in administering judicial duties: *viz.*, Vol. i., pages 23, 73, 404, and 609; Vol. ii., pages 89, 697; Vol. iii., pages 19, 643, 646; Vol. iv., pages 115, 197, 487, 503; and Vol. v., pages 321, 392, 516.

As no provision has been made by Congress to pay the costs in cases where the United States as a party fails in the prosecution, no fees can be claimed or expected, unless provision shall hereafter be made for that object.

Such alterations and additions will hereafter be made to the foregoing Orders and Regulations as may, in the wisdom of Congress, seem proper, or such as experience may suggest to the Commissioner of the United States in China.

JOHN W. DAVIS,
United States Commissioner to China.

Assented to,

PAUL S. FORBES,
Consul U. S. A. Canton.

Canton, China, January 2d, 1849.

APPENDIX.

TABLES OF FEES
TO BE LEVIED IN THE CONSULAR COURTS.

MARSHAL'S FEES.

For serving any writ, warrant, attachment or other compulsory process; each person, ...	$2.00
For serving summons, ...	1.00
For returning all writs, attachments, warrants, summons, and subpœnas, each, ...	0.50
For each bail-bond, ...	1.00
For every commitment or discharge of prisoner, ...	2.00
On subpœnas for each witness summoned, ...	0.50
For returning subpœna, ...	0.25
For each day's attendance upon Court, ...	3.00
For levying execution, ...	1.50
For advertising property for sale, ...	2.00
For releasing property under execution by order of plaintiff,	3.00
For selling property under execution, where the amount collected does not exceed one thousand dollars, ...	5 per cent.
If over $1000, and not exceeding $5000, ...	3 „ „
If over $5000, ...	2 „ „
For traveling fees in serving all processes, ...	15 cts. per mile.

CLERK'S FEES.

For issuing all writs, warrants, attachments, or other compulsory process, ...	$1.50
For executions, ...	1.00
For summonses and subpœnas, ...	0.50
For all records at the rate of, for each hundred words, ...	0.20
For filing each paper upon the return of the Marshal, and all other papers filed in Court, ...	0.10

WITNESSES' FEES.

For every day's attendance at Court, ...	$1.50
For each mile traveled in going to and returning from Court,	0.20

FEES OF CITIZEN ASSOCIATES OF THE COURT.

For each day's attendance, ...	$3.00

FORM OF BLANKS

TO BE USED IN THE CONSULAR COURTS.

No. 1.

FORM OF WARRANT ON A CRIMINAL CHARGE.

UNITED STATES CONSULAR COURT,
China, 18

United States
vs. } Charge of (*specify*).
C. D.

To (A. B.) Marshal of said court:

You are hereby commanded forthwith to bring before me the body of (C. D.), if found within this Consular jurisdiction, to answer upon a charge of *(here insert the crime with which charged)*.

And of this writ make due return.

L. S.

U. S. CONSUL.

No. 2.

FORM OF ATTACHMENT,

UNITED STATES CONSULAR COURT,
China, 18

To (A. B.) Marshal of said Court:

You are hereby commanded to attach the body of (C. D.), if found within this Consular jurisdiction, and him bring before this Court to answer a contempt by him committed in not obeying the subpœna of this Court to appear and testify for the plaintiff *(or defendant)* in the case of (I. C.) *vs.* (D. F.)

And of this writ make due return.

L. S.

U. S. CONSUL.

No. 3.

FORM OF BAIL BOND.

UNITED STATES CONSULAR COURT,
China, 18

Be it remembered, that on this day, we, the undersigned, jointly and severally acknowledge ourselves indebted to the United States of America in the penal sum of Dollars, for the payment whereof we bind ourselves, our heirs, and legal representatives, firmly by these presents.

The condition of the above obligation is such, that whereas (O. P.) one of the undersigned, a citizen of the United States, stands charged before this Court with *(here recite the crime charged)*: Now if the said (O. P.) shall be and appear before this Consular Court on the day of 18 , then and there to answer to the said charge, and not depart the Court without leave, then and in that case this obligation to be void, otherwise to remain in full force and virtue.

(To be signed by the parties.)

No. 4.

FORM OF SUMMONS.

UNITED STATES CONSULAR COURT,
China, 18

J. D.
vs. } An action of debt *(or for damages)*.
R. R.

To (A. B.) Marshal of said Court:

You are hereby commanded to summon (R. R.) if found within this Consular jurisdiction, to be and appear before me at o'clock A. M. (or P. M.), on the day of 18 , to answer (J. D.) on a plea of debt *(or damages)*, wherein the amount claimed is dollars and cents.

And of this writ make due return.

L. S.

U. S. CONSUL.

No. 5.

FORM OF SUBPŒNA.

UNITED STATES CONSULAR COURT,
China, 18

I. H.
vs. } Action of debt *(or for damages)*
C. D.

To (A. B.) Marshal of said Court:

You are hereby commanded to summon (J. K. I. B., and O. C.) if found within this Consular jurisdiction, to be and appear before me at o'clock A. M. (or P. M.) on the day of 18 , to give evidence in this case in behalf of the Plaintiff *(or defendant)*.

And of this subpœna make due return.

L. S.

U. S. CONSUL.

Note—If the subpœna be issued in a criminal case, it will be varied accordingly.

No. 6.

FORM OF AN APPEAL BOND.

KNOW all men by these presents, that I (O. P.) of am held and firmly bound to (C. D.) of *(the same place)*, in the penal sum of *(here insert the sum probably required to pay costs and damages)*, for the payment whereof I hereby bind myself, my heirs, and legal representatives, firmly by these presents.

The condition of the above obligation is such that whereas the abovenamed (C. D.) did on the day of 18 obtain judgment against me before (P. S.), Consul of the United States for the port of for the sum of dollars and cents, upon which judgment an appeal has this day been granted to the Court of the United States Commissioner: NOW therefore, if the undersigned shall appear and prosecute my said appeal, and answer all costs and damages consequent upon the affirmance of said judgment before said Commissioner, then and in that case the above bond and obligation to be void, otherwise to remain in full force and virtue. Witness my hand and seal.

Dated at 18

L. S.

No. 7.

FORM OF EXECUTION.

UNITED STATES CONSULAR COURT,
China, 18

B. C.
vs. } An action of debt *(or for damages)*.
D. E.

To (A. B.) Marshal of said Court:

Whereas (B. C.), Plaintiff in this case, did on the day of 18 obtain judgment before me against the said (D. E.) for the sum of dollars and cents, you are hereby commanded, of the goods and chattels of the said (D. E.) to levy, and by distress and sale thereof, make the said sum. And of this writ, with the money made thereon, make due return.

S. L.

U. S. CONSUL.

No. 8

FORM OF OATH FOR CHRISTIAN WITNESS.

You do solemnly swear *(or affirm)* that the evidence you will give in this case, wherein the United States is Plaintiff, and (P. T.) is Defendant, shall be the truth, the whole truth, and nothing but the truth: So help you God.

Note—In civil suits vary the above form accordingly.

No. 9.

FORM OF SUBMISSION FOR ARBITRATED CASES.

UNITED STATES CONSULAR COURT,
China, 18

A. B. }
vs. } An action of debt *(or for damages)*.
C. D. }

We, the undersigned, parties in this case, do mutually agree to submit the arbitration and decision thereof to (G. H.) chosen by the Plaintiff, and (I. J.) chosen by the Defendant, with power to said (G. H.) and (I. J.) to select an Umpire; and we further agree to submit to the award of said arbitrators, or a majority of them, and consent that their said award shall be final, when returned into this Court; and we authorize the Consul to render judgment thereon, in accordance with the award.

Witness, U. S. Consul.

A. B.
C. D.

FORM OF AWARD.

A. B. }
vs.
C. D. }

We, the undersigned, arbitrators chosen in this case in accordance with the form of submission presented to us, after hearing the testimony, and carefully considering the same, do award
dollars and cents in favor of Plaintiff *(or defendant)*.
Dated 18

(To be signed by the Arbitrators agreeing thereto.)

CONSULAR FEES.

DEPARTMENT OF STATE,
November 20th, 1856.

THE following is the rate or tariff of fees prescribed by the President to be charged by all consular officers for the services herein specified, which "shall be regarded as official services," and the fees therefor collected in American or Spanish silver dollars, or their equivalent.

At the expiration of each quarter, the statements of fees must be rendered pursuant to Forms Nos. 8, 33, 44, and 45, of the printed Instructions, by all consular officers entitled to salaries residing at seaports, and pursuant to Forms Nos. 9 and 33, at inland places, to the Secretary of the Treasury, and the amount thereof held subject to his draft or other directions. If the consular officers are not entitled to salaries, the returns must be made to the Secretary of State.

Receiving and delivering ship's papers.

1. For receiving and delivering ship's register and papers, including consular certificates as prescribed in forms Nos. 38 and 39, half a cent on every ton, registered measurement of the vessel for which the service is performed.

Discharging or shipping Seamen or Mariners.

2. For every seaman, from one to ten, who may be discharged or shipped, including the certificates therefor attached to crew list and shipping articles, to be paid by the master of the vessel, fifty cents; but no additional charge shall be made for any number of seamen exceeding ten, who may be discharged from or shipped between the date of the arrival and departure of the vessel.

Protests, Passports, &c.

3. For noting marine protest, ...	$1.00
4. For extending marine protest, ...	2.00
And if it exceed two hundred words, for every additional one hundred words, ...	1.00
5. For issuing warrant of survey on vessels, hatches, cargo, provisions, and stores, or either, ...	1.00
6. For a passport, including seal, ...	1.00
7. For viséing a passport, ...	1.00
8. For preparing agreement of master to give increased wages to seamen, attested under seal, ...	1.00
9. For preparing any other official document or instrument of writing, not herein named or enumerated, if under one hundred words. ...	1.00
If exceeding one hundred words, for every additional hundred words, ...	0.50

For the following Certificates, viz:

10. Of the deposit of a ship's register and papers, when required by custom-house authorities, ... ance
11. In cases of vessels deviating from the voyage, ... d, how-
12. When ship's register is retained *entire* in the consulate,
13. For master to take home destitute American seamen, ... favor of

14. Of conduct of crew on board, in cases of refusal of duty and in cases of imprisonment, &c., ... $0.25
15. Given to master at his own request, (for example, see Form No. 48), ... 0.50
16. To a seaman, of his discharge, ... no fee
17. Of appointment of new master, including oath of master, ... 1.00
18. Of the ownership of a vessel, ... 0.50
19. Of decision and award, in cases of protests against masters, passengers, or crew, (for example, see Form No. 49), ... 2.00
20. Of roll or list of crew, when required by the captain or authorities of the port, ... 0.50
21. To bill of health, ... 0.50
22. To shipping articles, ... 0.50
23. Of cancelling ship's register, ... 0.50
24. To debenture certificate, including oaths of master and mate, ... 1.25
25. To invoice, including oath, ... 2.00
26. To currency, ... 0.50
27. Of sea letter, ... 2.00
28. Of endorsement of bottomry on ship's register, ... 0.50
29. Of ditto on payment of bottomry on ship's register, ... 0.50
30. Of ditto of new ownership on ship's register, ... 0.50

Acknowledgments.

31. Of the master to bottomry bond, ... 1.00
32. Of the merchant to assignment of bottomry bond, ... 1.00
33. Of the vendor to a bill of sale of vessel, ... 1.00
34. Of the master to a mortgage or mortgage bill of sale of vessel, 1.00
35. Of the master to an order for payment of seamen's wages or voyages, at home, including making up order, if required, ... 0.50
36. Of one or more persons to a deed or instrument of writing, 2.00
37. Of one or more persons to a power of attorney, ... 2.00

Declarations and Oaths.

38. Of declaration and oath of master to one or more desertions, including oaths, attached to crew list and shipping articles, each, 0.50
39. To one or more deaths or losses of seamen overboard at sea, including oaths, attached to crew list and shipping articles, each, ... 0.50
40. To not being able to procure two-thirds of a crew of protected American seamen, ... 0.50
41. To ship's inventories or stores, ... 0.50
42. To the correctness of log book, ... 0.50
43. To ship's bills and vouchers for disbursements and repairs, ... 0.50

Authenticating copies of Papers.

44. Of marine note of protest, ... 1.00
45. Of extended protest, ... 2.00
46. Of call, warrant, and report of survey on vessel, hatches, cargo, provisions, and stores or either, (for example, see Form No. 50), 1.00
47. Of inventories and letters, or either, of masters, ... 1.00
48. Of account of sales of vessel, cargo, provisions and stores, or either, 1.00
49. Of advertisement for funds on bottomry, ... 1.00
50. Of advertisement of sale of vessel or cargo, provisions or stores, 1.00

Authenticating Signatures.

51. To reports of survey on vessel or cargo, provisions or stores, ... 1.00
52. To estimate of repairs of vessel, ... 1.00
To (auctioneer's) account of sales of vessel or cargo, provisions or stores, ... 1.00
To average bonds, ... 2.00
To governors, judges, notaries public, custom-house and other officers, ... 2.00

56. Of merchants and individuals, ... $2 00
57. For any other consular certificates or services of like character not herein named or enumerated, ... 0.50

Consuls' Orders and Letters.

58. To send seamen to hospital, ... no fee
59. To send seamen to prison, ... 0.50
60. To release seamen from prison, ... 0.50
61. To authorities or captain of the port, in cases of sinking vessels, (for example, see Form No. 51), ... 0.50
62. Requesting the arrest of seamen, ... 0.50
63. For any other letter or order of like character, ... 0.50

Filing documents in Consulate.

64. Calls of survey on vessel, hatches, cargoes, provisions and stores, or either, ... 0.25
65. Warrants of survey on vessels, hatches, cargoes, provisions and stores, or either, ... 0.25
66. Reports of survey on vessels, hatches, cargoes, provisions and stores, or either, ... 0.25
67. Estimate of repairs of vessel, ... 0.25
68. Consul's certificate to advertisement for funds on bottomry, ... 0.25
69. To advertisement of sale of vessel, cargo, provisions and stores, or either, ... 0.25
70. Inventories of vessels, cargo, provisions and stores, or either, 0.25
71. Letter of master notifying consul of sale of vessel, cargo, provisions and stores, or either, ... 0.25
72. Of master notifying auctioneer of sale of vessel, cargo, provisions and stores, or either, ... 0.25
73. Accounts of sale of vessel, cargo, provision and stores, or either, 0.25
74. For filing any other document prepared in or out of the consulate, 0.25

Recording Documents.

75. Calls of survey on vessel, hatches, cargo, provisions and stores, or either; warrants and reports of ditto, ditto: estimates of repairs; certificates of consuls to advertisements for funds on bottomry, and of sale of vessel: inventories of vessel, cargo, provisions, and stores; letter of master to consul notifying sale of vessel, cargo, provisions and stores, or either; letter of master to auctioneer, and account of sales of vessel, cargo, provisions and stores, or either, for every 100 words, ... 0.20
(As the original documents are required to be filed in consulate it will not be necessary to record them. Should it ever become necessary, however, to deliver up the originals, they must be recorded before delivery, the party receiving the same paying the record fee as above mentioned.)
76. Order and consul's certificate to pay seamen's wages or voyages, at home, ... 0.25
77. Certificate given to master at his own request, when required, 0.25
78. Appointment of new master, ... 0.25
79. Application of a citizen of the United States for a sea letter, 0.25
80. Sea letter, for every one hundred words, ... 0.20
81. Bill of sale, when required, for every one hundred words, ... 0.20
82. Consul's letter to captain of port, or authorities, in cases of sinking vessels, ... 0.25
83. Consuls' certificates to masters taking home destitute American seamen, ... per
84. Protests of masters and others, other than marine protests, for every one hundred words, ... instance
85. Average bonds, when required, for every one hundred words, ... led, how-
86. Powers of attorney, when required, for every one hundred in favor of

87. Any other document or instrument of writing not herein named or enumerated, prepared in or out of the consulate, and required to be recorded, for every one hundred words, ... $0.20

Estates of deceased American Citizens.

88. For taking into possession the personal estate of any citizen who shall die within the limits of a consulate, inventorying, selling, and finally settling and preparing or transmitting, according to law, the balance due thereon, five per cent. on the gross amount of such estate. If part of such estate shall be delivered over before final settlement, two and one-half per cent. to be charged on the part so delivered over as is not in money, and five per cent. on the gross amount of the residue. If among the effects of the deceased are found certificates of foreign stocks, loans, or other property, two and one-half per cent. on the amount thereof. No charge will be made for placing the official seal upon the personal property or effects of such deceased citizen, or for breaking or removing the seals, when required by the person or persons referred to in section 29 of the Act of August 18, 1856.

Miscellaneous Services.

89. For consul's seal and signature to clearance from custom-house authorities, ... 0.50
90. For administering oaths, not herein before provided for, each, 0.25
91. For consul's attendance at a shipwreck, or for the purpose of assisting a ship in distress, or of saving wrecked goods or property, over and above travelling expenses, a per diem of four dollars, whenever the consul's interposition is required by the parties interested, ... 4.00
92. For attending an appraisement, where the goods or effects are under one thousand dollars in value, ... 3.00
93. For attending valuation of goods of one thousand dollars and upwards in value, for every day's attendance during which the valuation continues, ... 5.00
94. For attending sale of goods, if the purchase money be under one thousand dollars, ... 3.00
95. For attending sale of goods, if the purchase money is one thousand dollars and upwards, for every day during which the sale continues, ... 5.00
96. For attending sale of vessel, when required, ... 2.00

Fees for unofficial sevices, perquisites of the consular officers.

As the unofficial acts of a consular officer may be prformed by a notary public, and as the compensation charged therefor is regarded as a perquisite of his office, the rate of such compensation may be determined either by agreement or the custom of the place, subject, however, to future instructions.

By order of the President:

W. L. MARCY,
Secretary of State.

Official Notification.

LEGATION OF THE UNITED STATES,
Canton, 10th March, 1851.

The Undersigned, Chargé-d'-affaires, *ad interim*, of the United States of America to China, hereby publishes, for the information of those whom it may concern, the following Regulations; which have been adopted, liable to such modifications as future experience shall suggest, and subject to the revision of Congress as provided by the 6th section of the Act of Congress, 11th August, 1848; but in the meantime, as provided by the 4th section of the same Act, having the force of law.

PETER PARKER.

RULES AND REGULATIONS
FOR MASTERS, OFFICERS, AND SEAMEN,

OF VESSELS OF THE UNITED STATES OF AMERICA,

AT THE FREE PORTS OF CHINA.

1. Whereas jurisdiction over citizens of the United States within the Empire of China, being, by treaty, reserved to the United States, by Act of Congress, approved 11th August, 1848, the statute laws and common law of the United States have been extended over said citizens in China, so far as they shall be found applicable in all civil and criminal cases; to avoid, as far as possible, the necessity of executing said laws in such cases, it is hereby specially enjoined upon masters and officers of vessels of the United States to use due vigilance to preserve the peace, and prevent difficulties between all seamen and subjects of China, while anchored at either of the five free ports.

2. Seamen are not allowed to land in the vicinity of the anchorage of the vessel to which they belong, or to visit the neighboring city, without permission of the captain or commanding officer, and then under charge of an officer of the vessel, and in no instance to be absent from the vessel over night: *Provided*, however, that the master may make exception in favor of

those seamen in whose good character he can confide, and for whose correct conduct he is responsible. The master, or officer in command, will judiciously decide the number of sailors to be absent from the vessel at any one time.

3. Seamen absent from the ship, whether in the vicinity of the anchorage, or at the neighboring city, shall be on board within the time specified by the master or commanding officer;—should any fail of so doing, or be guilty of misconduct while thus absent, they shall be liable to punishment by fine or otherwise, at the discretion of the Consul, or consular agent.

4. Chinese boatmen having voluntarily consented to be registered at the Consul's, or consular agent's office, it is recommended to masters of vessels, in employing Chinese boats while in port, to give employment to such only as submit to such registration.

5. Chinese boats with fruit and small articles of trade, *spirituous liquors excepted*, are permitted to approach ships, but only at such times during the day, as the master or commanding officer may deem proper.

6. Masters of vessels are required, on the one hand, to see that all just claims of subjects of China against seamen belonging to their ships are duly liquidated; and on the other to prevent, as far as possible, the Chinese from defrauding seamen.

7. Serious collisions occurring between citizens of the United States (whether seamen, or others belonging to an American vessel) and subjects of China, in which robbery or violence is committed by either party, or in which the death of a Chinese or foreigner ensues, the master or commanding officer of the vessel to which the latter belongs, shall, without delay, report the same to the United States' Commissioner to China, or to the Consul or consular agent of the port in which the crime is committed, in order to immediate judicial investigation and action.

Assented to,

R. B. Forbes,

Vice-Consul of U. S. A. at Canton.

March 14th, 1851.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

In pursuance of the fourth section of the Act of Congress, approved August 11th, 1848, entitled, "*An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries:*" I, Robert M. McLane, Commissioner of the United States of America to the empire of China, do hereby decree the following Rules and Regulations, which shall have the force of law in the consular courts of the United States of America in China:—

1*st.* When a citizen of the United States, who is a resident in China, absconds or is concealed, or who is about to depart, or has departed, leaving property, a creditor, who is a resident of China, to whom he owes any debt, or who has against him any claim, which may be the subject of a civil action, whether of debt or damage, may, on application to the U. S. consular court, and on filing therein a sworn statement of the facts on which he grounds the application, procure his real and personal estate to be attached in his own hands, or in the hands of any third person, who shall thenceforth hold the same subject to the further order of the court, and when perishable or from any other sufficient cause, in the discretion of the court, sell the same. But should any vessel be so attached, it may be released on satisfactory security being given to hold the value thereof, subject to the further order of the said court, and from the time of such attachment, all sales or assignments by the debtor shall be declared by the court

to be void; and the court may at any time take possession of all such property, and appoint a special receiver or trustee to hold the same subject to its order: the object of the said process of attachment being to compel appearance, or to hold the property of the debtor in pledge to pay the debt or damage recovered in the action, to which it must be used as ancillary; and every person within the jurisdiction of the said consular court having goods, effects, or credits of the defendant-debtor in his possession, may be summoned as trustee and defendant in the case, and the property in his hands attached and held to respond to the final judgment of the suit, or released at the discretion of the court, on a hearing prayed for by the said principal debtor or trustee-defendant, in whose hands the said property may have been attached. The trial shall be proceeded with six months after publication thereof, and notice by mail to the defendant-debtor if absent; unless it shall be alledged and proven to the satisfaction of the court, that the said debtor-defendant had absconded or concealed himself from creditors, or the jurisdiction and process of the court, or that he had died after his departure from his residence in China; in which latter case the suit shall not abate, but shall be proceeded with to final judgment, six months after the publication of the death of the debtor-defendant, and the appointment of an administrator of the property attached and held subject to the order of the said court.

But no person is to be adjudged to have property in his possession belonging to a debtor-defendant, by reason of having drawn, accepted, made, or endorsed, any negotiable bill, draft, note, or any other security.

Nor by reason of any money or other thing received or collected by him as marshal or receiver, or other officer of execution, or other process or order of a consular court.

Nor by reason of any money in his hands for which he is accountable as a public officer.

Nor by reason of any money due by him to the principal debtor-defendant, unless due absolutely and without depending on any contingency.

Nor by reason of any debt due from him on judgment, so long as he is liable to execution on that judgment.

Nor as guardian, for the debts of his ward.

Stocks, choses in action, and debts acknowledged due, may be attached; so a legacy, mortgage, &c.

In enforcing the process of attachment within the jurisdiction of the consular court, the common law of the States is suggested as a satisfactory guide and rule for the government of the U. S. Consul or U. S. Commissioner as the case may be, and the process of attachment hereby instituted is intended to embrace in some respects the process of both foreign and domestic attachment as known to the common law of the States; it may therefore be sued out, not only against a debt presently demandable and clearly due, but also against a debt not due. But no process of attachment shall issue against the property of any other defendant-debtor, than is described in this decree, as an absconding or concealed debtor, or when about to depart or who has departed from China, leaving property behind him, and no judgment or decision shall be rendered in such ancillary action, not expressly authorized by this decree:—the common and statute law of the several States being referred to, only as incidental rules to guide the court in the exercise of the special jurisdiction hereby conferred. Nothing herein contained is intended to interfere with the equity jurisdiction of the consular courts, under which injunctions may issue to restrain defendant-debtors from disposing of their property, and under which receivers are appointed to hold or collect property subject to the further order of the court. The process by attachment being a special process, unknown to the common law and laws of the United States, whether permitted as a principal or ancillary process, must be strictly pursued.

2*d*. After judgment, process of attachment may issue on the sworn statement of the plaintiff, in the discretion of the Consul or Commissioner, against the property of the defendant-debtor, whether in his own possession

or in the possession of another person, and that whether the said defendant-debtor be absent or present within the jurisdiction of the consular court; and the property so attached, when proven to be the property of the defendant-debtor, may be taken under the order of the court to satisfy the said judgment.

Property thus attached after judgment shall be subject to the same rules, and liable to the order of the court, in the same manner as when attached before trial, in a process of attachment ancillary to the main trial, subject to the same limitations prescribed in the several exceptions set forth in this decree, and when liable to attachment under these rules, to be taken possession of by the court, or left in the hands of the defendant-debtor or garnishee, as the court may be pleased to direct.

The court may at any time in its discretion require security from the plaintiff on filing a sworn statement for the process of attachment, as a guard against vexatious and frivolous allegations making parties defendant appear as garnishees, when there was no reasonable ground to suppose that property belonging to the principal defendant-debtor was in the possession of said garnishee.

ROBERT M. MCLANE,
Commissioner of the U. S. to China.

Assented to,
Shanghai, July 31, 1854.
ROBERT C. MURPHY,
Consul U. S. A.

Assented to,
Amoy, August 9, 1854.
T. HART HYATT,
Consul U. S. A.
D. N. SPOONER,
U. S. Vice-Consul at Canton.

NOTE.—The attachment binds all the estate, real and personal, of the debtor from the time it issues, and the attaching creditors acquire priority according to the order of time, except in the case of a debt attached, not due and presently demandable, which should be shared rateably by all creditors who may attach it before it falls due. This process of attachment, when issued by the consular courts in China, should be confined to the resident creditors, but shall not interfere with the equity proceeding of injunctions against estates of resident or non-resident debtors, in their own hands or in the hands of resident garnishers on a bill filed in behalf of a resident or non-resident creditor; and all equity proceedings shall be on bill and answer, whether for the discovery of evidence in a suit pending, or for relief in the consular court setting as a court of equity.

The Consuls will hold a court once in every month, to be opened on the first Wednesday of each month, at which session all cases shall be tried that may have been brought and entered on the consular record one week prior to the holding of next court.

The Consul may at his discretion hold special courts as heretofore.

The Consul may in person serve all processes of the court, or appoint special officers for that purpose in the absence of a marshal.

The presence of counsel in consular courts shall be under the exclusive control and discretion of the Consul.

ROBERT M. McLANE,
Commissioner of the U. S. to China.
25th August, 1854.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

In pursuance of the fourth section of the Act of Congress, approved August 11th, 1848, entitled "*An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries:*" I, Robert M. McLane, Commissioner of the United States to the empire of China, do hereby decree the following Rules and Regulations, which shall have the force of law in the consular courts of the United States in China:—

First.—When a citizen of the United States, who is a resident in China, wishes to discharge himself from debt, he may present an application in writing, verified by his oath to the United States' consular court at the port where he resides, setting forth the fact of his insolvency, the amount, kind, and particulars of his property, and the amount, nature, and particulars of his debts, specifying the names and residence of his creditors in China, so far as they are known or can be ascertained by him, alledging that he has not given a preference to any of them, and asking a discharge from his debts.

Upon receiving the application, the court may make an order, requiring the creditors of the insolvent to show cause to the court why the application of the insolvent should not be granted; and at such time, and after such lapse of time as the court in its discretion shall designate, it may proceed to hear the application.

If a creditor appear and deny any of the material allegations of the application, or alledge that the

applicant has given a preference to any of his creditors over the other, or has fraudulently contracted the debt to such creditor; or that such debt arose from a fraudulent misapplication of the property of another by the applicant; or that the applicant, if he be a merchant, has not kept proper books of account: the court may either try the question of fact thus alledged, or if requested by the applicant, order it to be tried by three referees, should it be possible to find suitable persons, citizens of the United States; and in the trial of this question it shall be competent for the court to cause the books and accounts of the applicant to be submitted for examination.

If such demand or allegation be not made by any creditor, or if being made is found on the trial to be untrue, the court may make an order declaring the applicant an insolvent debtor, and appointing a receiver of his property, who shall take and hold the same for rateable distribution among his creditors; and upon the final report of the receiver, showing the collection and conversion into available assets of all the property of the insolvent, and the payment thereof rateably to creditors, whose debts were proved to be due and owing before his application, the court may order that the insolvent be discharged from all such debts, provided they be debts of the following kind:—

Debts due to persons who were residents of China at the time of the application.

Debts contracted in China.

Debts due to creditors who have received a dividend from the receiver.

But such order of discharge shall in no case discharge a debt arising out of a fraudulent misapplication of the property of another, or when the debt has been fraudulently contracted; and such order of discharge shall in no case affect the liability of another person, who is liable jointly with the insolvent for the debt in question.

Second.—When a citizen of the United States who is a resident in China, or any subject of the Emperor

of China, or the citizen or subject of any other state or nation that may have the right to bring suit against a citizen of the United States in the United States' consular court in China, has a claim arising on contract, and already due, against any citizen of the United States residing in China, may apply to the United States' consular court, where the debtor resides to declare him insolvent, and close his affairs, in any of the following cases:—

When he has fraudulently contracted the debt to such creditors.

When he has concealed, removed or disposed of some part of his property, or is about to do so, with intent to defraud his creditors.

When an execution against his property has been returned unsatisfied in whole or in part.

When a promissory note made by him, or a bill of exchange drawn or accepted by him, while engaged in the business of a merchant, broker, factor, or banker, and owned by the creditor, has fallen due, and has remained unpaid and under protest, for at least ten days before the application of the creditor, without notice from the debtor, that he has a good and valid defense to such note or bill, accompanied by an offer of good security for the payment of any judgment that may be recovered thereon.

The application of the creditor must be in writing, verified by his affidavit, or that of another person knowing the case is within the class of debts described in this decree, and asking that a receiver of his property, wherever it may be found, shall be appointed, and his affairs closed.

Upon receiving such application, the court may make an order requiring the defendant to show cause, at a specified time and place, why the application should not be granted; and if then, or at any time afterwards, there appears to be danger of the defendant disposing of his property to the prejudice of the application, the court in its discretion may grant an injunction against any disposition thereof, whether in the hands of the debtor, or any other persons.

The court at its own direction as to time, and notice of the order to the debtor, to appear and show cause, shall proceed to hear the application.

If the debtor appear and deny any of the material allegations in the application, the court must order the question of fact to be tried by three referees, unless the debtor waives such trial by referees, or unless it be impossible to secure the service of three suitable persons, citizens of the United States; in either case, the court may itself try the question; and in the trial of this question it shall be competent for the court to cause the books and accounts of the applicant to be submitted for examination.

If such denial be not made, or, if made, be found in the trial to be untrue, the court may make an order, declaring that the debtor is an insolvent debtor, and appoint a receiver of his property. The court may compel the transfer and delivery by the insolvent debtor, or by any other person, of his property.

The receiver must immediately give public notice of his appointment in such manner as may be directed by the court, and for such time as the court in its discretion may order, and from the time of his appointment he is vested with all the property of the insolvent debtor in China, which when converted into available assets shall be applied under the order of the court, rateably to the payment of creditors whose debts were proved to be due and owing before the application of the creditor.

Third.—When a defendant-debtor, by virtue of the existing laws of the United States, shall be imprisoned for debt in China, by reason of fraud being proved against him, in concealing or embezzling his property, so that execution cannot reach it, he may at any time apply in writing to the United States' consular court, verified by his oath, setting forth the fact of his imprisonment, the amount, kind and particulars of his property, and the amount, nature and particulars of his debts, with the names and residences in China of his creditors, so far as they are known and can be as-

certained by him, and asking for discharge from imprisonment.

He must at the same time, prove by affidavit or admission in writing, that a copy of the application, with notice of presenting the same at a specified time and place, has been served on the judgment-creditor, upon whose execution the insolvent is imprisoned.

The application is to be heard in the same manner as other motions for a declaration of insolvency, and if it be shown to the satisfaction of the court that the allegations of the application are true, that the applicant is insolvent, that he does not conceal any of his property, and that he has not given a preference to a creditor for an antecedent debt, by any payment or disposition of his property, the court may make na order, declaring that the applicant is an insolvent debtor, and appointing a receiver of his property.

Upon a certificate of the receiver with an inventory or schedule, that the insolvent has transferred and delivered to him all the property specified therein, with all books, instruments, and papers relating thereto, and after due notice to the judgment-creditor, the court may make an order, discharging the insolvent from his imprisonment; but such discharge shall not affect the judgment, nor any other remedy for the collection thereof, other than against the person of the insolvent.

The receiver must proceed in the conversion of the property into available assets, and after satisfying the judgment, distribute the same rateably among the creditors existing at the time of the application.

The receiver of the court in all the foregoing proceedings, is at all times subject to the control of the court, and from the time of his appointment, he is vested with all the property of the insolvent.

Fourth.—When a creditor shall appear before the United States' consular court, and alledge in writing verified by his oath, that he has reason to believe an execution-defendant, against whom he has a judgment, is concealing or embezzling his property, so that execution cannot reach it, the Consul may, in addition

to the imprisonment of the execution-defendant, as provided by existing decrees, seize the books and accounts of said execution-defendant, and submit the same to three referees, or himself try the question contained in the allegation of the creditor.

Fifth.—When a sum of money is actually due from a citizen of the United States residing in China, upon a bond conditioned for the payment of money only, or upon a promissory note, or bill of exchange, and suit is brought in the United States' consular court, for the recovery of such money-debt actually due, the plaintiff can have an immediate attachment against the property of the defendant-debtor, in his own hands or in the hands of another person, upon giving security to pay all damages, if he fails to make out his case. But the defendant may avoid and discharge said process of attachment by giving security to the satisfaction of the court, to pay the amount of any judgment that may be obtained against him.

Sixth.—Touching the form of writs and processes from the United States' consular court, and the pleadings in the same, simplicity and brevity should be insisted upon, and no complaint or answer which may be submitted by plaintiff or defendant, shall be rejected for want of form, if the same be expressed in plain and intelligible language; and all writs of attachment or injunction issued from the United States' consular court, shall simply notify all concerned, that the United States' Consul, in virtue of his judicial authority, has attached the property, real, personal, and mixed, of the defendant A. B. to abide the further order of the United States' consular court in the matter of a suit therein pending; which notification may be served by the marshal or Consul, or any one authorized by him to serve the same; and in the matter of an injunction, the Consul need simply issue his notification or writ addressed to the party to be enjoined, setting forth what it is that the court enjoins and commands.

The following form is recommended in the practice of the United States' consular court, when the same

may apply, and in other cases, such an approach to the same, as may seem judicious:—

UNITED STATES' CONSULAR COURT, ——, 18

I hereby notify all concerned, that in virtue of the judicial authority in me vested as United States' Consul, that I do, by this writ, issuing out of the United States' Consular Court, attach all the property, real, personal, and mixed, of the defendant A. B., to be held subject to the further order of said Court, in the matter of a suit therein pending, in which C. D. is the plaintiff.

(Signed) —— —— *Consul.*

This writ should be served upon the defendant-debtor and upon every and all parties, who may be supposed to have property belonging to him in their possession, and the Consul, marshal, or any deputy of either, may serve the writ and endorse thereon the service.

In the case of an injunction, the notification may be more particular, and addressed to the individual in whose hands property may be enjoined, or who may be individually forbidden to dispose of the same, but in this and all other orders of the court, the names of the plaintiff and defendant in the case, to which such order of the court is ancillary and incident, should be expressed.

Seventh.—To guard against substantial errors and defects in the proceedings of the United States' consular court, in addition to the appeals and new trials now authorized, by the decrees regulating the proceedings of the United States' consular court, a prayer for a new trial shall lie to the United States' consular court, or to the United States' Commissioner, when any error or defect, be it a matter of fact or law, arises upon the face of the proceedings.

Such new trial may be prayed for at any time before the execution of the judgment, and all that shall be necessary to secure the same, will be a prayer to the court by the defendant that judgment be stayed, until the proceedings of said court in the particular case at issue be reviewed by the court itself, in a new trial thereof, or at the option of the plaintiff, until the United States' Commissioner shall have reviewed the

said proceedings; when he shall issue such order concerning a new trial thereof, as may appear to him necessary to secure a just and proper administration of justice in conformity with the law of Congress of 11th August, 1848, and the decrees and regulations made in pursuance thereof.

On the filing of such prayer by the defendant, the consular court may at its discretion, demand security for the payment of all costs and damages that may be awarded for the delaying of the execution, as also for those that may accrue in the new trial.

If there be no United States' Commissioner in China, then said proceedings may be reviewed by the person who for the time being is charged with the duties of United States' Commissioner, and the prayer filed by the defendant, asking for a review of the proceedings of the United States' consular court in a new trial, shall express fully and clearly the exceptions taken by said defendant to the proceedings of said United States' consular court, and whether he wishes the same to be reviewed by the United States' consular court, or submitted to the United States' Commissioner, or, in his absence to the person charged with the duties of the United States' Commissioner.

In the foregoing regulations, as well as in those heretofore decreed, reference has been made to the equity jurisdiction of the United States' consular court; such jurisdiction does not differ in substance from its common law jurisdiction, though when acting as a court of equity it is authorized to adopt a different mode of administering justice, pursuing the well established rules of equity proceedings, in the mode of *Proof*, *Trial* and *Relief*.

As to the mode of *Proof:* when facts are believed to rest only in the knowledge of the party sued, it is in the power of the equity-judge, to purge his conscience upon oath, with regard to the truth of the transactions alledged injurious to the rights of the plaintiff, and if he refuses to answer on oath the sworn complaint of the plaintiff, judgment may be given by default.

As to the mode of *Trial:* it shall be by a sworn bill of complaint and a sworn answer, and if testimony is required it may be taken in writing by a commissioner appointed by the court to take the same in answer to special interrogatories filed in court, by the party who desires to have the testimony taken and furnished to the opposite party.

As to the mode of *Relief:* it may be made particular and specific, obliging a party to execute his contract, while the action at law obliges him to pay damages for not executing it.

New trials and appeals shall lie from the equity-jurisdiction of the United States' consular court, as from the common law jurisdiction of the same.

The United States' consular court may exercise equity-jurisdiction, where the subject matter complained of be a matter of

1.—*Accident* and *Mistake.*
2.—*Account.*
3.—*Fraud.*
4.—*Infants.*
5.—*Specific Performance of Agreements.*
6.—*Trusts.*

These constitute the principal subjects of acknowledged equity-jurisdiction.

"By *Accident* is meant where a case is distinguished from others of a like nature, by unusual circumstances;" as for instance, in the case of bonds or deeds when lost or destroyed—the contents thereof may be proved in equity, and new bonds or deeds may be ordered to be made, or the lost obligations enforced; so in equity, the boundaries of land, where the boundaries have been lost, or never existed in consequence of a unity of possession by different parties, may be defined; so penalties and fines incurred by accident may be relieved against, and remitted by the equity-court.

Mistakes in a deed or contract, founded on a good consideration, may be rectified by the order of the equity-court, and a conveyance defective in form, may be corrected by its order.

In matters of *Accounts*, "mutual dealings and demands between parties, which are too complex to be accurately investigated by trial at law, may be adjusted in equity."

As to *Fraud*, no matter what the case may be, if fraudulent and dishonest conduct is alledged by the plaintiff, the equity-court may entertain the complaint, investigate the fraud, and apply such a remedy as the common law, and laws of the United States, and decrees made in pursuance thereof, may authorize.

As to *Infants*, the court of equity has plenary jurisdiction to appoint guardians where none legally exist, and to assume a general guardianship in its own right.

As to *Specific Performance of Agreements*, an equity-court may always enforce an agreement for the purchase of real estate; and generally an equity-court will always consider that which is agreed to be done, *as already done*, and enforce the doing of the same.

As to *Trusts*, equity will superintend and protect the creation of trusts, whether vesting in the trustee real or personal estate; and take jurisdiction of trusts, whether resulting from an express deed, or the force of circumstances and the situation of parties, which latter are implied trusts.

So all matters concerning *Lunatics*, *Administration of Estates*, or *Insolvency*, should be disposed of under the equity-jurisdiction; and generally, in all matters where some impediment exists to a fair decision of a case at common law, process may issue for the equity-jurisdiction to assist; as for instance, in compelling a discovery of evidence, which may enable the court of law to decide according to the real facts and justice of the case.

The United States' consular courts, whether exercising a common law or equity-jurisdiction, should be governed both in its practice and proceedings, by the provisions of the law of 1848, in virtue of which it derives all the judicial power it possesses; and by the 4th section of that Act, it is provided that such jurisdiction in criminal and civil matters shall in all cases be exercised and enforced in conformity with the laws

of the United States, the common law, and the decrees and regulations of the Commissioner of the United States to China, issued in pursuance of the 5th and 6th sections of the said law of the 11th August, 1848. By the expression "laws of the United States," is intended acts of the Congress of the United States; and by "common law" is intended that law which is to be found in the decisions of the courts of justice of the United States, both federal and State courts; as distinguished from that law which is to be found in the statute law of the United States and the several States. These decisions are to be found in the numerous volumes of American Reports, known as the reports of cases decided in the Court of the United States, and of the several States of the American Union, and they embrace the common law of England so far as the same has been judicially noticed as evidence of the common law, in the administration of justice in the United States.

The commentaries of Kent and Story on American law, and the American edition of Blackstone's Commentaries on the laws of England, are referred to as further evidence and explanation of the common law; and no practice or proceeding, and no final judgment, not expressly authorized by the laws of the United States, or the common law as thus defined, or by the decrees of the United States' Commissioner to China, should ever have place in a United States' consular court in China, whether the same be exercising a common law or equity-jurisdiction.

L. S.

ROBERT M. MCLANE,
U. S. Commissioner to China.

Shanghai, October 2d, 1854.

Assented to,

ROBERT C. MURPHY, *Consul U. S. A. at Shanghai.*
D. N. SPOONER, *U. S. Vice-Consul at Canton.*
CALEB JONES, *U. S. Consul at Fuhchau.*

Notification

ADDRESSED TO ALL CITIZENS OF THE UNITED STATES WITHIN THE DOMINIONS OF THE EMPEROR OF CHINA.

Since the capture of the cities of Shanghai and Amoy in the year 1853, and the seige of the city of Canton in the year 1854, by those engaged in insurrection and rebellion against the Imperial government of China, citizens of the United States, residing and sojourning at the ports open to commerce and trade, have been much embarrassed and constrained in all their social and commercial relations.

The United States' naval forces have been constantly engaged in affording them protection, when the local authorities of China have been unequal to the task; and the civil authorities of the United States appointed for the government and superintendence of their concerns, have had much difficulty to preserve for them their commercial privileges and personal rights and security.

This has been accomplished by abstaining from all interference with the domestic war now existing in China, and with the rights of those engaged in it; but collisions have been had on more than one occasion with those engaged in arms to sustain the Imperial government, and with those in insurrection against it.

This *non intervention* is but the practical application of well known principles of international law, which prescribe a policy of neutrality for all nations, in view of differences that may occur between one or more states, or in the case of domestic wars and revolutions. This policy of neutrality may be more or less modified by treaty, but unless so modified, it demands an absolute *non intervention* with the concerns of other nations; but more especially does it forbid foreign states, their citizens or subjects, from intervening, by affording military aid, assistance, or supplies, to either contending party.

So far as the treaty between China and the United States requires concert and coöperation between the Imperial authorities and the authorities of the United States, that concert and coöperation shall be faithfully and fearlessly rendered, and supported by the military power of the United States now in China, when such support is required to give it effect.

But in all matters, where such concert and coöperation is not required by treaty, a strict and practical neutrality has been maintained by the authorities of the United States in China, between those who defend the Imperial power and those who assail it.

It is the duty of citizens of the United States residing and sojourning in China, to respect the Imperial government, under which, in concert and coöperation with the authorities of the United States, they are protected and defended, and permitted to resort to China for the purposes of commerce. But those who engage in military service on either side, are reminded that they are under the jurisdiction and control of the authorities of the United States, who have made known to their countrymen and the world, their determination to protect the lives and property of American citizens in China, no matter where or by whom assailed; and they will not permit the weak or vicious of their own countrymen to imperil the safety of all.

More certainly to prevent the danger thereof, and for the better execution of the treaty between China and the United States, the following DECREE has been issued by the Undersigned, Commissioner of the United States to the Empire of China, in addition to the statutes of the United States already extended over citizens of the United States in China, in virtue of the Act of Congress, approved 11th August, 1848.

ROBERT M. MCLANE.
Commissioner of the United States of America to the Empire of China.

L. S.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

In pursuance of the fourth section of the Act of Congress, approved August 11th, 1848, entitled "*An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries:*" I, Robert M. McLane, Commissioner of the United States to the empire of China, do hereby decree the following Rules and Regulations, which shall have the force of law in the consular courts of the United States of America in China:—

I. That, if any citizen of the United States within the dominions of China, shall accept and exercise a commission to serve the Emperor of China, or any province, state, colony, district, or people in war, by land or by sea, within said dominions, against any other province, state, colony, district, or people, within said dominions, the person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and shall be imprisoned not exceeding three years in China or in the United States, at the discretion of the court.

II. That, any citizen of the United States who shall, within the dominions of China, enlist or enter himself, as a soldier or as a mariner or seaman, on board of any vessel of war in the service of the Emperor of China, or any province, state, colony, district, or people within said dominions, against any other province, state, colony, district, or people within said dominions, any person so offending shall be deemed guilty of a

high misdemeanor, and shall be fined not exceeding ten thousand dollars, and be imprisoned not exceeding three years in China or in the United States, at the discretion of the court.

III. That, if any citizen of the United States shall, within the dominions of China, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming, of any ship or vessel with intent that such ship or vessel shall be employed in the service of the Emperor of China, or any state, colony, district, or people within said dominions, to cruise or commit hostilities against the subjects, citizens or property of any province, state, colony, district, or people within said dominions, or shall issue or deliver a commission within said dominions, or any such ship or vessel, to the intent that she may be employed as aforesaid: Any citizen of the United States so offending, shall be deemed guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and imprisoned not more than three years in China or in the United States, at the discretion of the court: and every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition and stores, which may have been procured for the building and equipment thereof, shall be forfeited, one half to the use of the informer, and the other half to the use of the government of the United States.

L. S.

ROBERT M. MCLANE,

Commissioner of the United States of America to the Empire of China.

Canton, 5th December, 1854.

Public Notification.

The Undersigned, Commissioner and Minister Plenipotentiary of the United States of America to China, in accordance with instructions of his government, in relation to the so-called Coolie Trade, "publicly to discountenance the same on his arrival in China," issues this Public Notification to all whom it may concern:

Whereas, the history of the traffic in Chinese coolies, as carried on in vessels of the United States and under other flags, during the past few years, is replete with illegalities, immoralities, and revolting and inhuman atrocities, strongly resembling those of the African slave trade in former years, some of them exceeding the horrors of the "Middle Passage," women and children having been bought for the purpose, and others not merely seduced under false pretences, ignorant of their destination, but some forcibly abducted and violently borne to countries unknown to them, never to return; and not only by the ancient statutes of the Chinese Empire, but by recent Proclamation, the Imperial Government has prohibited the same, threatening with death the "brokers, hardened miscreants, who impose upon the people and seduce them to their destruction;" and

Whereas, the correspondence of the Imperial Government with this Legation has evinced its strong disapproval of the traffic, describing it in terms which place it upon a level with the slave trade itself; and—admitting the trade proper *per se*—it has been carried on in localities where *foreign trade is not permitted by any treaty, and is therefore illegal;* and the foreign name has been rendered odious by this traffic; hundreds and thousands of lives having been inhumanly sacrificed, not perhaps intentionally, but nevertheless they have been sacrificed, and, in some instances, in a manner

than which nothing more revolting can be conceived, whilst others who have survived have scarcely been more fortunate; and

WHEREAS, the amicable relations of the two governments are being jeopardized, and honorable and lawful commerce imperiled, and even the lives of those engaged in the inhuman pursuit have been exposed to the vengeance of those whose relations or friends have been bought, kidnapped, or grossly deceived, in the progress of the coolie trade:—

The Undersigned therefore calls upon all citizens of the United States to desist from this irregular and immoral traffic; and makes known to all whom it may concern, the high disapprobation thereof of the Government of the United States, and forewarns all who may hereafter engage therein, that they will not only forfeit the protection of their government while so doing, in whatever consequences they may be involved, but furthermore, render themselves liable to the heavy penalties to which the traffic, if as hitherto in some instances conducted, may expose them.

This Notification respects the "Coolie Trade," in contradistinction to the voluntary emigration of Chinese adventurers: between these, there exists a wide difference.

Regulations for the business of furnishing Chinese labor to countries that may desire the same, and for affording facilities to Chinese voluntarily disposed to render such service, in providing outfit and passage, and means and freedom of return at their option, may be a subject for future treaty stipulation or governmental arrangement on the part of western nations and China.

The United States' Consuls will be instructed to convey copies of this Notification to the proper Chinese authorities at the five ports.

Given under my hand and seal of office this 10th day of January, 1856.

PETER PARKER.

L. S.

Decree and Regulations

FOR JUDICIAL JURISDICTION BY

ACTING CONSULS OR VICE-CONSULS,

in the Consular Courts of the United States of America in China.

In pursuance of the fourth section of the Act of Congress, approved August 11th, 1848, entitled "*An Act to carry into effect certain provisions of the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries:*" I, Peter Parker, Commissioner of the United States of America to the empire of China, do hereby decree the following Rules and Regulations, which shall have the force of law in the consular courts of the United States of America in China:—

1*st.* That acting consuls and vice-consuls appointed by the Commissioner in China, or vice-consuls appointed by consuls and confirmed by the Commissioner, or the appointment as vice-consul being confirmed by the Secretary of State, such acting consul, or vice-consul, shall be considered as "*invested by the United States* with, and exercising, the consular authority in any of the five ports in China named in the Treaty," and as such qualified to exercise judicial authority.

2*d.* Any acting consul, or vice-consul, appointed and confirmed as above provided, shall exercise judicial authority in the same manner as a full consul, except in the point of law and regulations concerning *appeals* to the Commissioner.

3*d.* In all cases for the trial of offenses by an acting consul, or vice-consul, when the fine imposed shall exceed five hundred dollars, or the term of imprisonment shall exceed one year, the decision of the acting

consul or vice-consul, whether sitting with or without assessors — and if with assessors, although the acting consul or vice-consul and his associates concur in opinion — the sentence shall not be final, till, if either party desires it, the decision is referred to the Commissioner and confirmed by him; or otherwise disposed of as provided by the 13th section of said Act of 11th August, 1848, *viz.*, upon the evidence that comes up with it, the Commissioner shall himself decide finally, or hear the parties further, if he thinks justice will be promoted thereby; or he may also prescribe the rules upon which a new trial may be granted by the acting consul or vice-consul, or by himself, with or without assessors, if asked for upon justifiable grounds.

4*th*. All cases which come under the 15th section of the Act of 11th August, 1848, aforesaid, occurring at a port where the consular office is held by an acting consul, or vice-consul, shall be referred for trial, with all the evidence, to the nearest United States' consul of the five ports.

L. S.

PETER PARKER,
Commissioner of the United States to China.

Canton, 8th March, 1856.

Approved,
March 11th, 1856.

OLIVER H. PERRY,
U. S. Consul for the Port of Canton.

Assented to,
Amoy, May 2d, 1856,

T. HART HYATT,
U. S. Consul, Amoy.

Assented to by
CALEB JONES,
U. S. Consul, Fuhchau.
May 3d, 1856.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

In pursuance of the 4th and 5th sections of the Act of Congress, approved 11th August, 1848, entitled "*An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain legislative and judicial powers to Ministers and Consuls of the United States in those countries*," I, Peter Parker, Commissioner of the United States of America to the empire of China, do hereby enact the following Decree and Regulation, which shall have the force of law:

Whereas, in consequence of the hostilities existing between the English and Chinese at Canton, the trade of the port having been suspended, and the consulate of the United States and the residences of their citizens being in ashes, and all foreigners for the time being having been expelled from the provincial city: and whereas, by the above-cited Act of Congress, the laws of the United States are extended over their citizens in China, but in consequence of the above-mentioned circumstances, the consul of the United States for the port of Canton has been forced from his *territorial* jurisdiction, and so far, the citizens of the United States are deprived of the protection, rights, and benefits of the laws of their country, I hereby decree,—

I. The consul of the United States for the port of Canton shall have power and authority to hold his consular court, and to perform any other duty specifically belonging to his office as United States' consul for Canton, and no other, at the house of the Legation of

the United States in China, on board any government vessel of the United States (the commander thereof consenting), or in the absence or otherwise of a national vessel, on board any merchant vessel belonging to the United States (with the permission of the master thereof), and in either of them to perform any of the duties pertaining to said office; and each and every act therein executed shall have the same force and effect as if done in Canton.

II. Under similar circumstances, this decree and regulation shall apply in like manner to the consuls of the United States at the ports of Amoy, Fuhchau, Ningpo, and Shanghai.

III. This decree and regulation shall be in force from this date, and have effect only during the existence of such causes, as on this occasion, call them forth.

L. S.

PETER PARKER,
Commissioner of the U. S. of America in China.

Legation of U. S. of America, Macao, 4th March, 1857.

Assented to,
OLIVER H. PERRY,
Consul of the United States of the Port of Canton,
Macao, 4th March, 1857.

Assented to,
CALEB JONES,
U. S. Consul at Fuhchau,
March 16th, 1857.

Assented to,
T. HART HYATT,
U. S. Consul at Amoy,
March 12th, 1857.

Circular to American Consuls in China.

Legation of the United States to China,
February 18*th*, 1858.

Sir,

I am directed by his Excellency, the Minister of the United States, again and most earnestly, to call your attention to the *Coolie Traffic* in American ships, and the necessity of resorting to all legal measures to arrest it.

The view taken of the trade by this Legation is, that what constitutes the breach of the laws of the United States is the contract for labor or service under which the coolie is shipped. Hence, it is quite immaterial, in point of law, whether the coolie goes with or against his will, if on his arrival he is "to be disposed of to be held to labor or service." Of course there is a greater offense to morals and to the laws of this Empire, if, as is generally the case, the coolie is kidnapped or seduced or entrapped. The employment of American ships in carrying Chinese coolies to be held to labor is illegal. It has been so represented to the Government at Washington, and will be so regarded by it.

It is a trade in which, as revolting to humanity in its processes and results, no respectable American will participate.

It is a trade which endangers the lives of the mariners engaged in it, and of course involves terrible suffering and mortality among its principal victims — the coolies themselves.

The American Minister, in order to do all in his power to put an end, or as far as possible to circumscribe this traffic, instructs you— besides giving as much publicity to this communication as you may think conducive to the ends you have in view—to adopt the following course in all instances.

1st. Whenever you ascertain, or have good reason to believe that an American ship is about to be loaded with coolies for Havana, Surinam, or any other place, under contract for labor or service, you shall at once inform, verbally and in writing, the master, owner, or charterer, of the views of this Legation, and of the liability to punishment and forfeiture which he or they incur.

2d. Whenever such shipment is about to be made from a British or Portuguese port, you will at once give notice to the Superintendent of Trade or Governor, that the trade is regarded as a violation of the laws and treaties of the United States, and that this Legation will regard any countenance given to it as a most unfriendly act. The same notice is to be given to the consular authorities accredited here by the country to which the shipment is made.

3d. Whenever such shipment is about to be made from one of the treaty ports in China, immediate notice is to be given to the local Chinese authorities so that they may withhold the *grand chop*,

or port-clearance. Whenever the local authorities desire the aid of the consul to visit vessels in order to give relief to any Chinese detained against their will, it is to be given promptly. The refusal of the local authorities to give a clearance to an American ship, unless Chinese subjects so shipped are discharged, is a 'lawful requisition' of the local authorities, which the consul must respect.

4th. Particular attention must be paid by you to the shipping articles of the seamen in such vessels, for it is believed that in many instances frauds on seamen have been perpetrated by interlineations and erasures, and other alterations of shipping articles. In such case, where you are satisfied of the fact of the alteration, you will give such relief to the mariner as is authorized by law, and retain the papers till the decision of this Legation is known.

5th. If it be known to you that the intermediate destination of such ship is to some port not opened to trade by treaty for the purpose of there shipping coolies, you will, if practicable, give notice to the local authorities of the place, of this fraudulent design, and warn the master that such trade is a still grosser violation of law, and involves the same penalties.

6th. Whenever you have reason to believe that any ship, designed for this or any other trade, is about to sail from Hongkong or Macao to a port in China not opened by treaty, you shall forthwith give notice to the Superintendent of Trade, or Governor, of the fact.

7th. All cases of shipment of coolies in American ships under contracts to be held to labor or service must be reported *in detail* to this Legation, and, if possible, the facts verified by the affidavit of some third person.

Every case of such shipment of coolies, with the names of owners, master and charterers, will without delay be reported by this Legation to the Department of State, so that all parties engaged in this traffic may be exposed and brought to justice.

I am directed to repeat that you may give such publicity as you deem expedient to this communication, it being the sincere desire of the American Minister that without resort to ulterior measures, his fellow-citizens may be deterred from any further participation in a trade so revolting to humanity, and discreditable to the parties concerned.

He hopes and believes that this admonition, meant to be an earnest and respectful one, will have its influence with respectable commercial establishments, shippers, and masters. Should it fail, he has no other resource than to expose the individual ignominy which a share in such trade involves, and to bring the guilty parties to punishment. This shall be done thoroughly.

S. Wells Williams,
Secretary of Legation.

To the Consul of the United States of America.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

In pursuance of the 4th and 5th sections of the Act of Congress, approved August 11th, 1848, entitled, "*An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries,*" I, William B. Reed, Minister Plenipotentiary of the United States of America to the empire of China, do hereby decree the following Rules and Regulations, which shall have the force of law in the consular courts in China:—

1*st.* That in all cases of assignments for the benefit of the creditors within the jurisdiction of the consuls of the United States in China, distribution or dividends shall be made in the following manner:—

On the expiration of one year from the date of such assignment, the assignees may apply by petition to the appropriate consul, stating the amount of assets in hand and of the claims proved against the estate, and praying for an order of distribution.

The consul shall thereupon direct notice of such intended distribution to be given, either by direct personal communication, or publication for a period of not less than two months in newspapers published at Victoria and Shanghai, if a majority of creditors in amount shall be residents of China, or have agents or attorneys there resident; and when creditors reside out of China, by publication in such places as the consul may direct; and if, at the expiration of the time

specified in such notices, no sufficient cause be shown why such distribution should not be made, the consul shall make an absolute order in nature of a final decree, directing such distribution to be made and the form of acquittances therefor.

2*d*. That in no case of trusts or assignments for the benefit of creditors, shall a consul or vice-consul of the United States act as such.

L. S.

WILLIAM B. REED,
Envoy Extraordinary & Minister Plenipotentiary of the United States of America in China.

Legation of the United States of America,
U. S. St.-Fr. *Minnesota*, Hongkong Harbor,
February 27th, 1858.

Assented to, March 5th, 1858,
OLIVER H. PERRY,
U. S. Consul, Canton.

Approved, March 15th, 1858,
E. DOTY,
U. S. Vice-Consul, Amoy.

Approved, March 16th, 1858,
THOS. DUNN,
U. S. Vice-Consul, Fuhchau.

Assented to, March 12th, 1858,
CHARLES WILLIAM BRADLEY,
U. S. Consul, Ningpo.

Approved, April 9th, 1858,
GEO. B. GLOVER,
U. S. Vice-Consul, Shanghai.

Regulations

FOR THE CONSULAR COURTS

OF THE UNITED STATES OF AMERICA IN CHINA.

By authority of Congress, given for the fulfillment of existing treaty stipulations between the United States of America and China, the following additional regulations and orders, for the use and government of the United States consular courts in China, are ordered and established in conformity to the Act of Congress, approved August 11th, 1848, entitled, "*An Act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to Ministers and Consuls of the United States in those countries.*"

CLERK'S FEES.

For docketing every suit commenced,.....	$1.00
For drawing every notice, paper, order, or process, not heretofore provided for,.....	2.00
And if it exceed two hundred words, for every additional hundred words,.....	1.00
For every seal to process issued,.....	1.00

MARSHAL'S FEES.

For apprehending a deserter, and delivering him on board the vessel deserted from, to be paid by the vessel before leaving port,.....	5.00
For searching for the same, and if not found, to be certified by the Consul, and on his order to be paid by said ship,.....	2.00
For serving every notice not heretofore provided for, in addition to the usual traveling fees,....	0.50

CRIER'S FEES.

On trial of every suit,.....	1.00

All fees and expenses of court are to be paid by the party against whom judgment is entered, unless otherwise ordered by the court.

L. S.

WILLIAM B. REED,
Envoy Extraordinary & Minister Plenipotentiary of the United States of America in China.

LEGATION OF THE UNITED STATES OF AMERICA,
SHANGHAI, *November 9th*, 1858.

Assented to, November 9th, 1858.

W. L. G. SMITH,
U. S. Consul, Shanghai.

Assented to, November 9th, 1858.

T. HART HYATT,
U. S. Consul, Amoy.

Assented to, November 26th, 1858.

OLIVER H. PERRY,
U. S. Consul, Canton.

Assented to, December 18th, 1858.

THOS. DUNN,
U. S. Vice-Consul, Fuhchau.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE EMPIRE OF JAPAN.

Signed at Kanagawa, March 31st, 1854.
Ratified by the President of the United States, July, 1854.
Ratifications exchanged at Simoda, February 21st, 1855.
Proclaimed by the President, June 22d, 1855.

THE United States of America and the empire of Japan, desiring to establish firm, lasting, and sincere friendship between the two nations, have resolved to fix, in a manner clear and positive, by means of a treaty or general convention of peace and amity, the rules which shall in future be mutually observed in the intercourse of their respective countries; for which most desirable object the President of the United States has conferred full powers on his commissioner, MATTHEW CALBRAITH PERRY, special embassador of the United States to Japan, and the August Sovereign of Japan has given similar full powers to his commissioners, HAYASHI, Dai-gaku-no-kami, IDO, prince of Tsussima, IZAWA, prince of Mimasaki, and UDONO, member of the Board of Revenue. And the said commissioners, after having exchanged their said full powers and duly considered the premises, have agreed to the following articles:—

ART. I.—There shall be a perfect, permanent and universal peace, and a sincere and cordial amity between the United States of America on the one part, and the empire of Japan on the other part, and between their people respectively, without exception of persons or places.

ART. II.—The port of Simoda in the principality of Idzu, and the port of Hakodade in the principality of Matsmai, are granted by the Japanese as ports for the reception of American ships, where they can be supplied with wood, water, provisions, and coal, and other articles their necessities may require, as far as the Japanese have them. The time for opening the first-named port is immediately on signing this treaty; the last-named port is to be opened immediately after the same day in the ensuing Japanese year. [*Note.*—A tariff of prices shall be given by the Japanese officers of the things which they can furnish, payment for which shall be made in gold and silver coin.]

ART. III.—Whenever ships of the United States are thrown on the coast of Japan, the Japanese vessels will assist them, and carry their crews to Simoda or Hakodade, and hand them over to their countrymen appointed to receive them; whatever articles the shipwrecked men may have preserved shall likewise be restored, and the expenses incurred in the rescue and support of Americans and Japanese who may thus be thrown upon the shores of either nation are not to be refunded.

ART. IV.—Those shipwrecked persons and other citizens of the United States shall be free as in other countries, and not subjected to confinement, but shall be amenable to just laws.

ART. V.—Shipwrecked men and other citizens of the United States, temporarily living at Simoda and Hakodade, shall not be subject to such restrictions and confinement as the Dutch and Chinese are at Nagasaki, but shall be free at Simoda to go where they please within the limits of seven Japanese miles (or *ri*) from a small island in the harbor of Simoda, marked on the accompanying chart hereto appended; and shall in like manner be free to go where they please at Hakodade, within limits to be defined after the visit of the United States squadron to that place.

ART. VI.—If there be any other sort of goods wanted, or any business which shall require to be arranged, there shall be careful deliberation between the parties in order to settle such matters.

ART. VII.—It is agreed that ships of the United States resorting to the ports open to them shall be permitted to exchange gold and silver coin and articles of goods for other articles of goods, under such regulations as shall be temporarily established by the Japanese government for that purpose. It is stipulated, however, that the ships of the United States shall be permitted to carry away whatever articles they are unwilling to exchange.

ART. VIII.—Wood, water, provisions, coal, and goods required, shall only be procured through the agency of Japanese officers appointed for that purpose, and in no other manner.

ART. IX.—It is agreed, that if at any future day the government of Japan shall grant to any other nation or nations privileges and advantages which are not herein granted to the United States and the citizens thereof, that these same privileges and advantages shall be granted likewise to the United States and to the citizens thereof, without any consultation or delay.

ART. X.—Ships of the United States shall be permitted to resort to no other ports in Japan but Simoda and Hakodade, unless in distress or forced by stress of weather.

ART. XI.—There shall be appointed by the government of the United States consuls or agents to reside in Simoda, at any time after the expiration of eighteen months from the date of the signing of this treaty: provided that either of the two governments deem such arrangement necessary.

ART. XII.—The present convention having been concluded and duly signed, shall be obligatory and faithfully observed by the United States of America and Japan, and by the citizens and subjects of each respective power; and it is to be ratified and approved by the President of the United States, by and with the advice and consent of the Senate thereof, and by the August Sovereign of Japan, and the ratifications shall be exchanged within eighteen months from the date of the signature thereof, or sooner if practicable.

In faith whereof, we, the respective plenipotentiaries of the United States of America and the Empire of Japan aforesaid, have signed and sealed these presents.

Done at Kanagawa this thirty-first day of March, in the year of our Lord Jesus Christ one thousand eight hundred and fifty-four, and of Kayei, the seventh year, third month, and third day.

L. S. M. C. PERRY.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE EMPIRE OF JAPAN.

Concluded at Simoda, June 17th, 1857.
Ratified by the President of the United States, June 30th, 1858.
Proclaimed by the President, June 30th, 1858.

For the purpose of further regulating the intercourse of American citizens within the empire of Japan, and, after due deliberation, his excellency Townsend Harris, consul-general of the United States of America for the Empire of Japan, and their excellencies Ino-oo-ye, prince of Sinano, and Nakamura, prince of Dewa, governors of Simoda, all having full powers from their respective governments, have agreed on the following articles, to wit:—

Art. I.—The port of Nangasaki, in the principality of Hizen, shall be open to American vessels, where they may repair damages, procure water, fuel, provisions, and other necessary articles, even coals, where they are obtainable.

Art. II.—It being known that American ships coming to the ports of Simoda and Hakodade cannot have their wants supplied by the Japanese, it is agreed that American citizens may permanently reside at Simoda and Hakodade, and the government of the United States may appoint a vice-consul to reside at Hakodade.

This article to go into effect on the fourth day of July, eighteen hundred fifty-eight.

Art. III.—In settlement of accounts the value of the money brought by the Americans shall be ascertained by weighing it with Japanese coin, (gold and silver itsebues.) that is, gold with gold, and silver with silver, or weights representing Japanese coin may be used, after such weights have been carefully examined and found to be correct. The value of the money of the Americans having been thus ascertained, the sum of six per cent. shall be allowed to the Japanese for the expense of recoinage.

Art. IV.—Americans committing offenses in Japan shall be tried by the American consul-general or consul, and shall be punished according to American laws. Japanese committing offenses against Americans shall be tried by the Japanese authorities, and punished according to Japanese laws.

Art. V.—American ships which may resort to the ports of Simoda, Hakodade, or Nangasaki, for the purpose of obtaining necessary supplies, or to repair damages, shall pay for them in gold or silver coin, and if they have no money, goods shall be taken in exchange.

Art. VI.—The government of Japan admits the right of his excellency the consul-general of the United States to go beyond the limits of seven ri, but has asked him to delay the use of that right, except in cases of emergency, shipwreck, &c., to which he has assented.

Art. VII.—Purchases for his excellency the consul-general, or his family, may be made by him only, or by some member of his

family, and payment made to the seller for the same without the intervention of any Japanese official, and for this purpose Japanese silver and copper coin shall be supplied to his excellency the consul-general.

ART. VIII.—As his excellency the consul-general of the United States of America has no knowledge of the Japanese language, nor their excellencies the governors of Simoda a knowledge of the English language, it is agreed that the true meaning shall be found in the Dutch version of the articles.

ART. IX.—All the foregoing articles shall go into effect from the date hereof, except article two, which shall go into effect on the dateindicated in it.

Done in quintuplicate, (each copy being in English, Japanese, and Dutch,) at the Goyoso of Simoda, on the seventeenth day of June, in the year of the Christian era eighteen hundred fifty-seven, and of the Independence of the United States of America the eighty-first, corresponding to the fourth Japanese year of Ansei, Mi, the fifth month, the twenty-sixth day; the English version being signed by his excellency the consul-general of the United States of America, and the Japanese version by their excellencies the governors of Simoda.

TOWNSEND HARRIS. [L. S.]

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE JAPANESE EMPIRE.

Signed at Yedo, July 29th, 1858.
Ratified by the President of the United States, April 12th, 1860.
Ratifications exchanged at Washington, May 22d, 1860.
Proclaimed by the President, May 23d, 1860.

THE President of the United States of America, and his Majesty the Tycoon of Japan, desiring to establish on firm and lasting foundations the relations of peace and friendship now happily existing between the two countries, and to secure the best interest of their respective citizens and subjects, by encouraging, facilitating and regulating their industry and trade, have resolved to conclude a treaty of amity and commerce for this purpose, and have therefore named as their plenipotentiaries, that is to say,

The President of the United States, his excellency TOWNSEND HARRIS, Consul-general of the United States of America for the Empire of Japan,—and his Majesty the Tycoon of Japan, their excellencies INO-OO-YE, prince of Sinano, and IWASAY, prince of Higo, who, after having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following articles:—

ART. I.—There shall henceforward be perpetual peace and friendship between the United States of America and his Majesty the Tycoon of Japan, and his successors.

The President of the United States may appoint a diplomatic agent to reside at the city of Yedo, and consuls or consular agents to reside at any or all of the ports in Japan which are opened for American commerce by this treaty. The diplomatic agent and consul-general of the United States, shall have the right to travel freely in any part of the empire of Japan, from the time they enter on the discharge of their official duties.

The government of Japan may appoint a diplomatic agent to reside at Washington, and consuls or consular agents for any or all of the ports of the United States. The diplomatic agent and consul-general of Japan may travel freely in any part of the United States from the time they arrive in the country.

ART. II.—The President of the United States, at the request of the Japanese government, will act as a friendly mediator in such matters of difference as may arise between the government of Japan and any European power. The ships of war of the United States shall render friendly aid and assistance to such Japanese vessels as they may meet on the high seas, so far as can be done without a breach of neutrality; and all American consuls, residing at ports visited by Japanese vessels, shall also give them such friendly aid as may be permitted by the laws of the respective countries in which they reside.

ART. III.—In addition to the ports of Simoda and Hakodade, the following ports and towns shall be opened on the dates respectively appended to them, that is to say:—Kanagawa on the (4th of July, 1859,) fourth day of July, one thousand eight hundred and fifty-nine. Nagasaki on the (4th of July, 1859,) fourth day of July, one thousand eight hundred and fifty-nine. Nee-e-gata on the (1st of January, 1860,) first day of January, one thousand eight hundred and sixty. Hiogo on the (1st of January, 1863,) first day of January, one thousand, eight hundred and sixty-three.

If Nee-e-gata is found to be unsuitable as a harbor, another port on the west coast of Nipon shall be selected by the two governments in lieu thereof. Six months after the opening of Kanagawa, the port of Simoda shall be closed as a place of residence and trade for American citizens. In all the foregoing ports and towns, American citizens may permanently reside; they shall have the right to lease ground, and purchase the buildings thereon, and may erect dwellings and warehouses. But no fortification or place of military strength shall be erected under pretense of building dwelling or warehouses; and to see that this article is observed, the Japanese authorities shall have the right to inspect, from time to time, any buildings which are being erected, altered or repaired. The place which the Americans shall occupy for their buildings, and the harbor regulations, shall be arranged by the American consul and the authorities of each place, and if they cannot agree, the matter shall be referred to and settled by the American diplomatic agent and the Japanese government. No wall, fence, or gate shall be erected by the Japanese around the place of residence of the Americans, or anything done which may prevent a free egress and ingress to the same. From the (1st of January, 1862,) first day of January, one thousand eight hundred and sixty-two, Americans shall be allowed to reside in the city of Yedo; and from the (1st of January, 1863,) first day of January, one thousand eight hundred and sixty-three, in the city of Osaca, for the purposes of trade only. In each of these cities, a suitable place within which they may hire houses, and the distance they may go, shall be arranged by the American diplomatic agent and the government of Japan. Americans may freely buy from Japanese and sell to them, any articles that either may have for sale, without the intervention of any Japanese officer in such purchase or sale, or in making or receiving payment for the same, and all classes of the Japanese may purchase, sell, keep or use, any articles sold to them by the Americans. The Japanese government will cause this clause to be made public in every part of the empire, as soon as the ratifications of this treaty shall be exchanged. Munitions of war shall only be sold to the Japanese government and foreigners.

No rice or wheat shall be exported from Japan as cargo, but all Americans resident in Japan, and ships, for their crews and passengers, shall be furnished with sufficient supplies of the same. The Japanese government will sell from time to time, at public auction, any surplus quantity of copper that may be produced. Americans, residing in Japan, shall have the right to employ Japanese as servants or in any other capacity.

ART. IV.—Duties shall be paid to the government of Japan on all

goods landed in the country, and on all articles of Japanese production that are exported as cargo, according to the tariff hereunto appended. If the Japanese custom-house officers are dissatisfied with the value placed on any goods by the owner, they may place a value thereon, and offer to take the goods at that valuation. If the owner refuses to accept the offer, he shall pay duty on such valuation. If the offer be accepted by the owner, the purchase money shall be paid to him without delay, and without any abatement or discount.

Supplies for the use of the United States navy may be landed at Kanagawa, Hakodàdi, and Nagasaki, and stored in warehouses, in the custody of an officer of the American government, without the payment of any duty. But if any such supplies are sold in Japan, the purchaser shall pay the proper duty to the Japanese authorities.

The importation of opium is prohibited, and any American vessel coming to Japan, for the purposes of trade, having more than (3) three catties' (four pounds avoirdupois) weight of opium on board, such surplus quantity shall be seized and destroyed by the Japanese authorities. All goods imported into Japan, and which have paid the duty fixed by this treaty, may be transported by the Japanese into any part of the empire without the payment of any tax, excise, or transit duty, whatever.

No higher duties shall be paid by Americans on goods imported into Japan, than are fixed by this treaty, nor shall any higher duties be paid by Americans than are levied on the same description of goods if imported in Japanese vessels, or the vessels of any other nation.

ART. V.—All foreign coin shall be current in Japan, and pass for its corresponding weight of Japanese coin of the same description. Americans and Japanese may freely use foreign or Japanese coin in making payments to each other. As some time will elapse before the Japanese will be acquainted with the value of foreign coin, the Japanese government will, for the period of one year after the opening of each harbor, furnish the Americans with Japanese coin in exchange for theirs, equal weights being given and no discount taken for recoinage. Coins of all descriptions (with the exception of Japanese copper coin) may be exported from Japan, and foreign gold and silver uncoined.

ART. VI.—Americans committing offenses against Japanese shall be tried in American consular courts, and when found guilty shall be punished according to American law. Japanese committing offenses against Americans shall be tried by the Japanese authorities, and punished according to Japanese law. The consular courts shall be open to Japanese creditors, to enable them to recover their just claims against American citizens, and the Japanese courts shall in like manner be open to American citizens for the recovery of their just claims against Japanese.

All claims for forfeitures or penalties for violations of this treaty, or of the articles regulating trade, which are appended hereunto, shall be sued for in the consular courts, and all recoveries shall be delivered to the Japanese authorities. Neither the American nor Japanese governments are to be held responsible for the payment of any debts contracted by their respective citizens or subjects.

ART. VII.—In the opened harbors of Japan, Americans shall be free to go where they please, within the following limits:—At Kanagawa, the river Logo (which empties into the bay of Yedo between Kawasaki and Sinagawa), and (10) ten ri in any other direction. At Hakodadi, (10) ten ri in any direction. At Hiogo, (10) ten ri in any direction, that of Kioto excepted, which city shall not be approached nearer than (10) ten ri. The crews of vessels resorting to Hiogo shall not cross the river Enagawa, which empties into the bay between Hiogo and Osaca. The distances shall be measured from the goyoso or town-hall of each of the foregoing harbors, the ri being equal to (4275) four thousand two hundred and seventy-five yards, American measure. At Nagasaki, Americans may go into any part of the imperial domain in its vicinity. The boundaries of Nee-e-gata, or the place that may be substituted for it, shall be settled by the American diplomatic agent and the government of Japan.

Americans who may have been convicted of felony, or twice convicted of misdemeanors, shall not go more than (1) one Japanese ri inland, from the places of their respective residences, and all persons so convicted shall lose their right of permanent residence in Japan, and the Japanese authorities may require them to leave the country. A reasonable time shall be allowed to all such persons to settle their affairs, and the American consular authority shall, after an examination into the circumstances of each case, determine the time to be allowed, but such time shall not in any case exceed one year, to be calculated from the time the person shall be free to attend to his affairs.

ART. VIII.—Americans in Japan shall be allowed the free exercise of their religion, and for this purpose shall have the right to erect suitable places of worship. No injury shall be done to such buildings, nor any insult be offered to the religious worship of the Americans. American citizens shall not injure any Japanese temple or mia, or offer any insult or injury to Japanese religious ceremonies, or to the objects of their worship. The Americans and Japanese shall not do anything that may be calculated to excite religious animosity. The government of Japan has already abolished the practice of trampling on religious emblems.

ART. IX.—When requested by the American consul, the Japanese authorities will cause the arrest of all deserters and fugitives from justice, receive in jail all persons held as prisoners by the consul, and give to the consul such assistance as may be required to enable him to enforce the observance of the laws by the Americans who are on land, and to maintain order among the shipping. For all such services, and for the support of prisoners kept in confinement, the consul shall in all cases pay a just compensation.

ART. X.—The Japanese government may purchase or construct in the United States, ships of war, steamers, merchant ships, whale-ships, cannon, munitions of war, and arms of all kinds, and any other things it may require. It shall have the right to engage, in the United States, scientific, naval and military men, artisans of all kinds, and mariners to enter into its service. All purchases made for the government of Japan may be exported from the United States, and all persons engaged for its service may freely depart from the United States. *Provided*,—That no articles that are contraband of war shall be exported, nor any

persons engaged to act in a naval or military capacity, while Japan shall be at war with any power in amity with the United States.

ART. XI.—The articles for the regulation of trade, which are appended to this treaty, shall be considered as forming a part of the same, and shall be equally binding on both the contracting parties to this treaty, and on their citizens and subjects.

ART. XII.—Such of the provisions of the treaty made by Commodore Perry, and signed at Kanagawa on the 31st of March, 1854, as conflict with the provisions of this treaty, are hereby revoked; and as all the provisions of a convention executed by the consul-general of the United States and the governors of Simoda on the 17th of June, 1857, are incorporated in this treaty, that convention is also revoked.

The person charged with the diplomatic relations of the United States in Japan, in conjunction with such person or persons as may be appointed for that purpose by the Japanese government, shall have power to make such rules and regulations, as may be required to carry into full and complete effect the provisions of this treaty, and the provisions of the articles regulating trade appended thereunto.

ART. XIII.—After the (4th of July, 1872,) fourth day of July, one thousand eight hundred and seventy-two, upon the desire of either the American or Japanese governments, and on one year's notice given by either party, this treaty, and such portions of the treaty of Kanagawa as remain unrevoked by this treaty, together with the regulations of trade hereunto annexed, or those that may be hereafter introduced, shall be subject to revision by commissioners appointed on both sides for this purpose, who will be empowered to decide on, and insert therein, such amendments as experience shall prove to be desirable.

ART. XIV.—This treaty shall go into effect on the (4th of July, 1859,) fourth day of July, in the year of our Lord, one thousand eight hundred and fifty-nine, on or before which day the ratifications of the same shall be exchanged at the city of Washington; but if, from any unforeseen cause, the ratifications cannot be exchanged by that time, the treaty shall still go into effect at the date above mentioned.

The act of ratification on the part of the United States shall be verified by the signature of the President of the United States, countersigned by the Secretary of State, and sealed with the seal of the United States. The act of ratification on the part of Japan, shall be verified by the name and seal of his Majesty the Tycoon, and by the seals and signatures of such of his high officers as he may direct.

This treaty is executed in quadruplicate, each copy being written in the English, Japanese, and Dutch languages, all the versions having the same meaning and intention, but the Dutch version shall be considered as being the original.

In witness whereof, the abovenamed Plenipotentiaries have hereunto set their hands and seals, at the city of Yedo, this twenty-ninth day of July, in the year of our Lord, one thousand eight hundred and fifty-eight, and of the Independence of the United States of America the eighty-third, corresponding to the Japanese era the nineteenth day of the sixth month of the fifth year of Ansei Mma.

TOWNSEND HARRIS, L. S.

REGULATIONS UNDER WHICH AMERICAN TRADE IS TO BE CONDUCTED IN JAPAN.

REG. I.—Within (48) forty-eight hours (Sundays excepted) after the arrival of an American ship in a Japanese port, the captain or commander shall exhibit to the Japanese custom-house authorities the receipt of the American consul, showing that he has deposited the ship's register and other papers, as required by the laws of the United States, at the American consulate; and he shall then make an entry of his ship by giving a written paper, stating the name of the ship and the name of the port from which she comes, her tonnage, the name of her captain or commander, the names of her passengers (if any), and the number of her crew, which paper shall be certified by the captain or commander to be a true statement, and shall be signed by him; he shall at the same time deposit a written manifest of his cargo setting forth the marks and numbers of the packages, and their contents as they are described in his bills of lading, with the names of the person or persons to whom they are consigned. The captain or commander shall certify the manifest to be a true account of all the cargo and stores on board the ship, and shall sign his name to the same.

If any error is discovered in the manifest it may be corrected within (24) twenty-four hours (Sundays excepted), without the payment of any fee, but for any alteration or post entry to the manifest made after that time, a fee of ($15) fifteen dollars shall be paid. All goods not entered on the manifest, shall pay double duties on being landed. Any captain or commander that shall neglect to enter his vessel at the Japanese custom-house within the time prescribed by this regulation, shall pay a penalty of ($60) sixty dollars, for each day that he shall so neglect to enter his ship.

REG. II.—The Japanese government shall have the right to place custom-house officers on board of any ship in their ports (men-of-war excepted). All custom-house officers shall be treated with civility, and such reasonable accommodations shall be allotted to them as the ship affords. No goods shall be unladen from any ship between the hours of sunset and sunrise, except by special permission of the custom-house authorities, and the hatches, and all other places of entrance into that part of the ship where the cargo is stowed, may be secured by Japanese officers between the hours of sunset and sunrise, by affixing seals, locks, or other fastenings; and if any person shall, without due permission, open any entrance that has been so secured, or shall break or remove any seal, lock, or other fastening that has been affixed by the Japanese custom-house officers, every person so offending shall pay a fine of ($60) sixty dollars for each offense.

Any goods that shall be discharged or attempted to be discharged from any ship, without having been duly entered at the Japanese custom-house as hereinafter provided, shall be liable to seizure and confiscation. Packages of goods made up with an intent to defraud the revenue of Japan, by concealing therein articles of value which

are not set forth in the invoice, shall be forfeited. American ships that shall smuggle, or attempt to smuggle goods in any of the non-opened harbors of Japan, all such goods shall be forfeited to the Japanese government, and the ship shall pay a fine of ($1000) one thousand dollars for each offense.

Vessels needing repairs may land their cargo for that purpose without the payment of duty. All goods so landed shall remain in charge of the Japanese authorities, and all just charges for labor, storage, and supervision shall be paid thereon. But if any portion of such cargo be sold, the regular duties shall be paid on the portion so disposed of.

Cargo may be transhipped to another vessel in the same harbor without the payment of duty; but all such transhipments shall be made under the supervision of Japanese officers, and after satisfactory proof has been given to the custom-house authorities of the *bona fide* nature of the transaction, and also under a permit to be granted for that purpose by such authorities.

The importation of opium being prohibited, if any person or persons shall smuggle, or attempt to smuggle any opium, he or they shall pay a fine of ($15) fifteen dollars for each catty of opium so smuggled, or attempted to be smuggled; and if more than one person shall be engaged in the offense, they shall collectively be held responsible for the payment of the foregoing penalty.

Reg. III.—The owner or consignee of any goods, who desires to land them, shall make an entry of the same at the Japanese custom-house. The entry shall be in writing, and shall set forth the name of the person making the entry, and the name of the ship in which the goods were imported, and the marks, numbers, packages, and the contents thereof, with the value of each package extended separately in the one amount, and at the bottom of the entry shall be placed the aggregate value of all the goods contained in the entry. On each entry the owner or consignee shall certify in writing, that the entry then presented exhibits the actual cost of the goods, and that nothing has been concealed whereby the customs of Japan would be defrauded; and the owner or consignee shall sign his name to such certificate.

The original invoice or invoices of the goods so entered shall be presented to the custom-house authorities, and shall remain in their possession until they have examined the goods contained in the entry. The Japanese officers may examine any or all of the packages so entered, and for this purpose may take them to the custom-house, but such examination shall be without expense to the importer or injury to the goods, and after examination the Japanese shall restore the goods to their original condition in the packages (so far as may be practicable), and such examination shall be made without any unreasonable delay.

If any owner or importer discovers that his goods have been damaged on the voyage of importation, before such goods have been delivered to him, he may notify the custom-house authorities of such damage, and he may have the damaged goods appraised by two or more competent and disinterested persons, who, after due examination, shall make a certificate setting forth the amount per cent. of damage on each separate package, describing it by its mark and

number, which certificate shall be signed by the appraisers in presence of the custom-house authorities, and the importer may attach the certificate to his entry, and make a corresponding deduction from it. But this shall not prevent the custom-house authorities from appraising the goods in the manner provided in article fourth of the treaty, to which these regulations are appended.

After the duties have been paid, the owner shall receive a permit, authorizing the delivery to him of the goods, whether the same are at the custom-house or on ship board. All goods intended to be exported shall be entered at the Japanese custom-house before they are placed on ship board. The entry shall be in writing, and shall state the name of the ship by which the goods are to be exported, with the marks and numbers of the packages, and the quantity, description, and value of their contents. The exporter shall certify in writing, that the entry is a true account of all the goods contained therein, and shall sign his name thereto. Any goods that are put on board of a ship for exportation before they have been entered at the custom-house, and all packages which contain prohibited articles shall be forfeited to the Japanese government. No entry at the custom-house shall be required for supplies for the use of ships, their crews and passengers, nor for the clothing, &c., of passengers.

Reg. IV.—Ships wishing to clear shall give (24) twenty-four hours' notice (Sundays excepted) at the custom-house, and at the end of that time they shall be entitled to their clearance; but if it be refused, the custom-house authorities shall immediately inform the captain or consignee of the ship of the reasons why the clearance is refused, and they shall also give the same notice to the American consul.

Ships of war of the United States shall not be required to enter or clear at the custom-house, nor shall they be visited by Japanese custom-house or police officers. Steamers carrying the mails of the United States may enter and clear on the same day, and they shall not be required to make a manifest, except for such passengers and goods as are to be landed in Japan. But such steamers shall, in all cases, enter and clear at the custom-house.

Whale-ships touching for supplies, or ships in distress, shall not be required to make a manifest of their cargo, but if they subsequently wish to trade, they shall then deposit a manifest as required in regulation first. The word *ship*, wherever it occurs in these regulations, or in the treaty to which they are attached, is to be held as meaning ship, barque, brig, schooner, sloop, or steamer.

Reg. V.—Any person signing a false declaration or certificate, with the intent to defaud the revenue of Japan, shall pay a fine of ($125) one hundred and twenty-five dollars for each offense.

Reg. VI.—No tonnage duties shall be levied on American ships in the ports of Japan, but the following fees shall be paid to the Japanese custom-house authorities.

For the entry of a ship ($15) fifteen dollars.

For the clearance of a ship ($7) seven dollars.

For each permit ($1½) one dollar and a half.

For each bill of health ($1½) one dollar and a half.

For any other document ($1½) one dollar and a half.

REG. VII.—Duties shall be paid to the Japanese government on all goods landed in the country, according to the following tariff:—

Class 1. All articles in this class shall be free of duty. Gold and silver, coined or uncoined; wearing apparel in actual use; household furniture and printed books not intended for sale, but the property of persons who come to reside in Japan.

Class 2. A duty of (5) five per cent. shall be paid on the following articles:—All articles used for the purpose of building, rigging or fitting out of ships. Whaling gear of all kinds, salted provisions of all kinds, bread and breadstuffs, living animals of all kinds, coals, timber for building houses, rice, paddy, steam machinery, zinc, lead, tin, raw silk.

Class 3. A duty of (35) thirty-five per cent. shall be paid on all intoxicating liquors, whether prepared by distillation, fermentation or in any other manner.

Class 4. All goods not included in the preceding classes, shall pay a duty of (20) twenty per cent. All articles of Japanese production, which are exported as cargo, shall pay a duty of (5) five per cent., with the exception of gold and silver and copper in bars.

Five years after the opening of Kanagawa, the import and export duties shall be subject to revision, if the Japanese government desires it.

TOWNSEND HARRIS, L. S.

COMPACT
BETWEEN THE UNITED STATES OF AMERICA AND THE ROYAL GOVERNMENT OF LEWCHEW.

Concluded at Napa, July 11th, 1854.
Proclaimed by the President of the United States, March 9th, 1855.

HEREAFTER, whenever citizens of the United States come to Lewchew, they shall be treated with great courtesy and friendship. Whatever articles these persons ask for, whether from the officers or people, which the country can furnish, shall be sold to them; nor shall the authorities interpose any prohibitory regulations to the people selling, and whatever either party may wish to buy shall be exchanged at reasonable prices.

Whenever ships of the United States shall come into any harbor in Lewchew, they shall be supplied with wood and water at reasonable prices; but if they wish to get other articles, they shall be purchasable only at Napa.

If ships of the United States are wrecked on Great Lewchew, or on islands under the jurisdiction of the royal government of Lewchew, the local authorities shall dispatch persons to assist in saving life and property, and preserve what can be brought ashore till the ships of that nation shall come to take away all that may have been saved; and the expenses incurred in rescuing these unfortunate persons shall be refunded by the nation they belong to.

Whenever persons from ships of the United States come ashore in Lewchew, they shall be at liberty to ramble where they please without hindrance or having officials sent to follow them, or to spy what they do; but if they violently go into houses, or trifle with women, or force people to sell them things, or do other such like illegal acts, they shall be arrested by the local officers, but not maltreated, and shall be reported to the captain of the ship to which they belong for punishment by him.

At Tumai is a burial-ground for the citizens of the United States, where their graves and tombs shall not be molested.

The government of Lewchew shall appoint skillful pilots, who shall be on the lookout for ships appearing off the island, and if one is seen coming towards Napa, they shall go out in good boats beyond the reefs to conduct her in to a secure anchorage, for which service the captain shall pay the pilot five dollars; and the same for going out of the harbor beyond the reefs.

Whenever ships anchor at Napa, the local authorities shall furnish them with wood at the rate of three thousand six hundred copper cash per thousand catties; and with water at the rate of six hundred copper cash (43 cents) for one thousand catties, or six barrels full, each containing 30 American gallons.

Signed in the English and Chinese languages by Commodore Matthew C. Perry, Commander-in chief of the United States' naval forces in the East India, China and Japan seas, and special envoy to Japan, for the United States; and by Sho Fu-fing, superintendent of affairs *(Tsu-li-kwan)* in Lewchew, and Ba Rio-si, treasurer of Lewchew, at Shui, for the government of Lewchew; and copies exchanged this 11th day of July, 1854, or the reign Hienfung, 4th year, 6th moon, 17th day, at the Town-hall of Napa.

M. C. PERRY.

TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE MAGNIFICENT KING OF SIAM.

Concluded at Bangkok, March 20th, 1833.
Ratifications exchanged at Bangkok, April 14th, 1836.
Proclaimed by the President of the United States, June 24th, 1837.

His Majesty the sovereign and magnificent King, of the city of Sia-Yuthia, has appointed the Chau Phaya Phra-klang, one of the first ministers of state, to treat with Edmund Roberts, Minister of the United States of America, who has been sent by the government thereof, on its behalf, to form a treaty of sincere friendship and entire good faith between the two nations. For this purpose, the Siamese and the citizens of the United States of America shall, with sincerity, hold commercial intercourse in the ports of their respective nations as long as heaven and earth shall endure.

This treaty is concluded on Wednesday, the last of the fourth month of the year 1194, called Pi-marông-chat-tava-sôk (or the year of the Dragon), corresponding to the twentieth day of March, in the year of our Lord, 1833. One original is written in Siamese, and the other in English; but as the Siamese are ignorant of English, and the Americans of Siamese, a Portuguese and a Chinese translation are annexed, to serve as testimony to the contents of the treaty. The writing is of the same tenor and date in all the languages aforesaid: It is signed, on the one part, with the name of the Chau Phaya Phra-klang, and sealed with the seal of the lotus flower of glass; on the other part, it is signed with the name of Edmund Roberts, and sealed with a seal containing an eagle and stars. One copy will be kept in Siam, and another will be taken by Edmund Roberts to the United States. If the government of the United States shall ratify the said treaty, and attach the seal of the government, then Siam will also ratify it on its part, and attach the seal of its government.

Art. I.—There shall be a perpetual peace between the United States of America and the magnificent King of Siam.

Art. II.—The citizens of the United States shall have free liberty to enter all the ports of the kingdom of Siam, with their cargoes, of whatever kind the said cargoes may consist; and they shall have liberty to sell the same to any of the subjects of the King, or others who may wish to purchase the same, or to barter the same for any produce or manufacture of the kingdom, or other articles that may be found there. No prices shall be fixed by the officers of the King on the articles to be sold by the merchants of the United States, or the merchandise they may wish to buy, but the trade

shall be free on both sides, to sell or buy, or exchange, on the terms and for the prices the owners may think fit. Whenever the said citizens of the United States shall be ready to depart, they shall be at liberty so to do, and the proper officers shall furnish them with passports: *Provided always*, There be no legal impediment to the contrary. Nothing contained in this article shall be understood as granting permission to import and sell munitions of war to any person excepting to the King, who, if he does not require, will not be bound to purchase them; neither is permission granted to import opium, which is contraband; or to export rice, which cannot be embarked as an article of commerce. These only are prohibited.

ART. III.—Vessels of the United States entering any port within his Majesty's dominions, and selling or purchasing cargoes of merchandise, shall pay, in lieu of import and export duties, tonnage, license to trade, or any other charge whatever, a measurement duty only, as follows:—The measurement shall be made from side to side, in the middle of the vessel's length; and if a single decked vessel, on such single deck; if otherwise, on the lower deck. On every vessel selling merchandise, the sum of one thousand seven hundred ticals, or *bats*, shall be paid for every Siamese fathom in breadth so measured; the said fathom being computed to contain seventy-eight English or American inches, corresponding to ninety-six Siamese inches; but if the said vessel should come without merchandise, and purchase a cargo with specie only, she shall then pay the sum of fifteen hundred ticals or bats, for each and every fathom before described. Furthermore, neither the aforesaid measurement duty, nor any other charge whatever, shall be paid by any vessel of the United States that enters a Siamese port for the purpose of refitting, or for refreshments, or to inquire the state of the market.

ART. IV.—If hereafter the duties payable by foreign vessels be diminished in favor of any other nation, the same diminution shall be made in favor of the vessels of the United States.

ART. V.—If any vessel of the United States shall suffer shipwreck on any part of the magnificent King's dominions, the persons escaping from the wreck shall be taken care of and hospitably entertained at the expense of the King, until they shall find an opportunity to be returned to their country; and the property saved from such wreck shall be carefully preserved and restored to its owners; and the United States will repay all expenses incurred by his Majesty on account of such wreck.

ART. VI.—If any citizen of the United States, coming to Siam for the purpose of trade, shall contract debts to any individual of Siam, or if any individual of Siam shall contract debts to any citizen of the United States, the debtor shall be obliged to bring forward and sell all his goods to pay his debts therewith. When the product of such *bona fide* sale shall not suffice, he shall no longer be liable for the remainder, nor shall the creditor be able to retain him as a slave,

imprison, flog, or otherwise punish him, to compel the payment of any balance remaining due, but shall leave him at perfect liberty.

ART. VII.—Merchants of the United States coming to trade in the kingdom of Siam, and wishing to rent houses therein, shall rent the King's factories, and pay the customary rent of the country. If the said merchants bring their goods on shore, the King's officers shall take account thereof, but shall not levy any duty thereupon.

ART. VIII.—If any citizens of the United States, or their vessels, or other property, shall be taken by pirates, and brought within the dominions of the magnificent King, the persons shall be set liberty, and the property restored to its owners.

ART. IX.—Merchants of the United States trading in the kingdom of Siam shall respect and follow the laws and customs of the country in all points.

ART. X.—If hereafter any foreign nation other than the Portuguese shall request and obtain his Majesty's consent to the appointment of consuls to reside in Siam, the United States shall be at liberty to appoint consuls to reside in Siam, equally with such other foreign nation.

EDMUND ROBERTS, L. S.

WHEREAS the undersigned, Edmund Roberts, a citizen of Portsmouth in the state of New Hampshire in the United States of America, being duly appointed an envoy by letters patent, under the President and seal of the United States of America, bearing date at the city of Washington, the twenty-sixth day of January A.D. 1832, for negotiating and concluding a treaty of amity and commerce between the United States of America and his Majesty the King of Siam:

Now know ye, that I, Edmund Roberts, envoy as aforesaid, do conclude the foregoing treaty of amity and commerce, and every article and clause therein contained; reserving the same, nevertheless, for the final ratification of the President of the United States of America, by and with the advice and consent of the Senate of the said United States.

Done at the royal city of Sia-Yuthia (commonly called Bankok), on the twentieth day of March, in the year of our Lord one thousand eight hundred and thirty-three, and of the Independence of the United States of America the fifty-seventh.

EDMUND ROBERTS, L. S.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SIAM.

Concluded at Bangkok, May 29th, 1856.
Ratified, March 16th, 1857.
Ratifications exchanged at Bangkok, June 15th, 1857.
Proclaimed by the President of the United States, August 16th, 1858.

The President of the United States of America, and their Majesties Phra Bard Somdetch Phra Paramendr Maha Mongkut Phra Chom Klau Chau Yu Hua, the first King of Siam, and Phra Bard Somdetch Phra Pawarendr Ramesr Mahiswaresr Phra Pin Klau Chau Yu Hua, the second King of Siam, desiring to establish upon firm and lasting foundations the relations of peace and friendship existing between the two countries, and to secure the best interest of their respective citizens and subjects by encouraging, facilitating, and regulating their industry and trade, have resolved to conclude a treaty of amity and commerce for this purpose, and have therefore named as their Plenipotentiaries; that is to say, the President of the United States, Townsend Harris, Esq., of New York, consul-general of the United States of America for the empire of Japan, and their Majesties, the first and second kings of Siam, his royal highness Krom Hluang Wongsa Dhiraj Snidh, his excellency Somdetch Chau Phaya Param Maha Bijai-neate, his excellency Chau Phaya Sri Suriwongse Samuha Phra Kralahom, his excellency Chau Phaya Rawe Wongee Maha Kosa Dhipade, the phra-klang, his excellency Chau Phaya Yomray, the lord mayor, who, after having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following articles:—

Art. I.—There shall henceforward be perpetual peace and friendship between the United States, and their Majesties the first and second Kings of Siam and their successors. All American citizens coming to Siam shall receive from the Siamese government full protection and assistance to enable them to reside in Siam in all security, and trade with every facility, free from oppression or injury on the part of the Siamese. Inasmuch as Siam has no ships trading to the ports of the United States, it is agreed that the ships of war of the United States shall render friendly aid and assistance to such Siamese vessels as they may meet on the high seas, so far as can be done without a breach of neutrality; and all American consuls, residing at ports visited by Siamese vessels, shall also give them such friendly aid as may be permitted by the laws of the respective countries in which they reside.

Art. II.—The interests of all American citizens coming to Siam shall be placed under the regulation and control of a consul, who will be appointed to reside at Bangkok. He will himself conform to, and will enforce the observance by American citizens of all the provisions of this treaty, and such of the former treaty negotiated by Mr. Edmund Roberts in 1833 as shall still remain in operation. He shall

also give effect to all rules or regulations as are now or may hereafter be enacted for the government of American citizens in Siam, the conduct of their trade, and for the prevention of violations of the laws of Siam. Any disputes arising between American citizens and Siamese subjects shall be heard and determined by the consul in conjunction with the proper Siamese officers; and criminal offenses will be punished, in the case of American offenders, by the consul, according to American laws, and in the case of Siamese offenders, by their own laws, through the Siamese authorities. But the consul shall not interfere in any matters referring solely to Siamese, neither will the Siamese authorities interfere in questions which only concern the citizens of the United States.

ART. III.—If Siamese in the employ of American citizens offend against the laws of their country, or if any Siamese having so offended, or desiring to desert, take refuge with American citizens in Siam, they shall be searched for, and upon proof of their guilt or desertion, shall be delivered up by the consul to the Siamese authorities. In like manner, any American offenders, resident or trading in Siam, who may desert, escape to, or hide themselves in Siamese territory, shall be apprehended and delivered over to the American consul on his requisition.

ART. IV.—American citizens are permitted to trade freely in all the seaports of Siam, but may reside permanently only at Bangkok, or within the limits assigned by this treaty. American citizens coming to reside at Bangkok may rent land and buy or build houses, but cannot purchase land within a circuit of two hundred *seng* (not more than four miles English) from the city walls, until they shall have lived in Siam for ten years, or shall obtain special authority from the Siamese government to enable them to do so. But, with the exception of this limitation, American residents in Siam may at any time buy or rent houses, lands, or plantations, situated anywhere within a distance of twenty-four hours' journey from the city of Bangkok, to be computed by the rate at which boats of the country can travel. In order to obtain possession of such lands or houses, it will be necessary that the American citizen shall, in the first place, make application through the consul to the proper Siamese officer, and the Siamese officer and the consul, having satisfied themselves of the honest intentions of the applicant, will assist him in settling, upon equitable terms, the amount of the purchase money; will make out and fix the boundaries of the property, and will convey the same to the American purchaser under sealed deeds, whereupon he and his property shall be placed under the protection of the governor of the district, and that of the particular local authorities. He shall conform in ordinary matters to any just direction given him by them, and will be subject to the same taxation that is levied on Siamese subjects. But if, through negligence, the want of capital, or other cause, an American citizen should fail to commence the cultivation or improvement of the lands so acquired within a term of three years from the date of receiving possession thereof, the Siamese government shall have the power of resuming the property upon returning to the American citizen the purchase-money paid by him for the same.

ART. V.—All American citizens visiting or residing in Siam shall be allowed the free exercise of their religion, and liberty to build places

of worship in such localities as shall be consented to by the Siamese authorities. The Siamese government will place no restriction upon the employment by the Americans of Siamese subjects as servants, or in any other capacity. But wherever a Siamese subject belongs or owes service to some particular master, the servant who engages himself to an American citizen without the consent of his master, may be reclaimed by him, and the Siamese government will not enforce an agreement between an American citizen and any Siamese in his employ, unless made with the knowledge and consent of the master, who has a right to dispose of the services of the person engaged.

ART. VI.—American ships-of-war may enter the river and anchor at Paknam, but they shall not proceed above Paknam, unless with consent of the Siamese authorities, which shall be given where it is necessary that a ship shall go into dock for repairs. Any American ship-of-war conveying to Siam a public functionary, accredited by the American government to the court of Bangkok, shall be allowed to come up to Bangkok, but shall not pass the forts called Phrachamit and Pit-pach-nuck, unless expressly permitted to do so by the Siamese government. But in the absence of an American ship-of-war, the Siamese authorities engage to furnish the consul with a force sufficient to enable him to give effect to his authority over American citizens, and to enforce discipline among American shipping.

ART. VII.—The measurement duty hitherto paid by American vessels trading to Bangkok under the treaty of 1833, shall be abolished from the date of this treaty coming into operation; and American shipping or trade will thenceforth be only subject to the payment of import and export duties on the goods landed or shipped.

On the articles of import the duty shall be three per cent., payable at the option of the importer, either in kind or money, calculated upon the market value of the goods. Drawback of the full amount of duty shall be allowed upon goods found unsaleable and reëxported. Should the American merchant and the custom-house officers disagree as to the value to be set upon imported articles, such disputes shall be referred to the consul and a proper Siamese officer, who shall each have the power to call in an equal number of merchants as assessors, not exceeding two on either side, to assist them in coming to an equitable decision.

Opium may be imported free of duty, but can only be sold to the opium farmer or his agents. In the event of no arrangement being effected with them for the sale of the opium, it shall be reëxported, and no impost or duty [shall be] levied thereon. Any infringement of this regulation shall subject the opium to seizure and confiscation.

Articles of export, from the time of production to the date of shipment, shall pay one impost only, whether this be levied under the name of inland tax, transit duty, or duty on exportation. The tax or duty to be paid on each article of Siamese produce previous to or upon exportation, is specified in the tariff attached to this treaty; and it is distinctly agreed that goods or produce that pay any description of tax in the interior shall be exempted from any further payment of duty on exportation. American merchants are to be allowed to purchase directly from the producer the articles in which they trade, and in like manner to sell their goods directly to the parties wishing

to purchase the same without the interference in either case of any other person. The rates of duty laid down in the tariff attached to this treaty are those that are now paid upon goods or produce shipped in Siamese or Chinese vessels or junks; and it is agreed that American shipping shall enjoy all the privileges now exercised by, or which hereafter may be granted to, Siamese or Chinese vessels or junks.

American citizens will be allowed to build ships in Siam on obtaining permission to do so from the Siamese authorities.

Whenever a scarcity may be apprehended of salt, rice and fish, the Siamese government reserve to themselves the right of prohibiting by public proclamation the exportation of these articles, giving 30 days' (say, thirty days) notice, except in case of war. Bullion or personal effects may be imported or exported free of charge.

ART. VIII.—The code of regulations appended to this treaty shall be enforced by the consul, with the coöperation of the Siamese authorities; and they, the said authorities and consul, shall be enabled to introduce any further regulations which may be found necessary in order to give effect to the objects of this treaty. All fines and penalties inflicted for infraction of the provisions and regulations of this treaty shall be paid to the Siamese government.

ART. IX.—The American government and its citizens will be allowed free and equal participation in any privileges that may have been or may hereafter be granted by the Siamese government to the government, citizens, or subjects of any other nation.

ART. X.—After the lapse of ten years from the date of the ratification of this treaty, upon the desire of either the American or Siamese government, and on twelve months' notice given by either party, the present, and such portions of the treaty of 1833 as remain unrevoked by the treaty, together with the tariff and regulations thereunto annexed, or those that may hereafter be introduced, shall be subject to revision by commissioners appointed on both sides for this purpose, who will be empowered to decide on and insert therein such amendments as experience shall prove to be desirable.

ART. XI.—This treaty, executed in English and Siamese, both versions having the same meaning and intention, shall take effect immediately, and the ratifications of the same shall be exchanged at Bangkok within eighteen months from the date thereof.

In witness whereof, the abovenamed Plenipotentiaries have signed and sealed the present treaty in triplicate at Bangkok, on the twenty-ninth day of May, in the year one thousand eight hundred and fifty-six of the Christian era, and of the Independence of the United States the eightieth, corresponding to the tenth of the waning moon of the lunar month Wesakh, or sixth month of the year of the Quadruped Serpent of the Siamese civil era, one thousand two hundred and eighteen, and the sixth of the reign of their Majesties, the first and second kings of Siam.

L. S. TOWNSEND HARRIS.

Signatures of Siamese Plenipotentiaries.

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GENERAL REGULATIONS UNDER WHICH AMERICAN TRADE IS TO BE CONDUCTED IN SIAM.

Reg. I.—The master of every American ship coming to Bangkok to trade, must, either before or after entering the river, as may be found convenient, report the arrival of his vessel at the custom-house at Paknam, together with the number of his crew, and the port from whence he comes. Upon anchoring his vessel at Paknam, he will deliver into the custody of the custom-house officers all his guns and ammunition, and a custom-house officer will then be appointed to the vessel, and will proceed in her to Bangkok.

Reg. II.—A vessel passing Paknam without discharging her guns and ammunition as directed in the foregoing regulation, will be sent back to Paknam to comply with its provisions, and will be fined eight hundred ticals for having so disobeyed. After delivery of her guns and ammunition, she will be permitted to return to Bangkok to trade.

Reg. III.—When an American vessel shall have cast anchor at Bangkok, the master, unless a Sunday should intervene, will, within four and twenty hours after arrival, proceed to the American consulate, and deposit there his ship's papers, bills of lading, &c., together with a true manifest of his import cargo; and upon the consul's reporting these particulars to the custom-house, permission to break bulk will at once be given by the latter.

For neglecting so to report his arrival, or for presenting a false manifest, the master will subject himself, in each instance, to a penalty of four hundred ticals, but he will be allowed to correct, within twenty-four hours after delivery of it to the consul, any mistake he may discover in his manifest, without incurring the abovementioned penalty.

Reg. IV.—An American vessel breaking bulk and commencing to discharge before the permission shall be obtained, or smuggling, either when in the river or outside the Bar, shall be subject to the penalty of eight hundred ticals, and confiscation of the goods so smuggled or discharged.

Reg. V.—As soon as an American vessel shall have discharged her cargo and completed her outward lading, paid all her duties, and delivered a true manifest of her outward cargo to the American consul, a Siamese port-clearance shall be granted her on application from the consul, who, in the absence of any legal impediment to her departure, will then return to the master his ship's papers, and allow the vessel to leave. A custom-house officer will accompany the vessel to Paknam, and on arriving there, she will be inspected by the custom-house officers of that station, and will receive from them the guns and ammunition previously delivered into their charge.

Reg. VI.—The American plenipotentiary having no knowledge of the Siamese language, the Siamese government have agreed that the English text of these regulations, together with the treaty of which they form a portion, and the tariff hereunto annexed, shall be accepted as conveying in every respect their true meaning and intention.

REG. VII.—All American citizens intending to reside in Siam shall be registered at the American consulate. They shall not go out to sea, nor proceed beyond the limits assigned by this treaty for the residence of American citizens without a passport from the Siamese authorities, to be applied for by the American consul; nor shall they leave Siam, if the Siamese authorities show to the American consul that legitimate objections exist to their quitting the country. But within the limits appointed under article fourth of the treaty, American citizens are at liberty to travel to and fro, under the protection of a pass, to be furnished them by the American consul, and countersealed by the proper Siamese officer, stating in the Siamese character their names, calling, and description. The Siamese officers at the government stations in the interior, may at any time call for the production of this pass; and immediately on its being exhibited, they must allow the parties to proceed; but it will be their duty to detain those persons who, by traveling without a pass from the consul, render themselves liable to the suspicion of their being deserters, and such detention shall be immediately reported to the consul.

L. S. TOWNSEND HARRIS.

Signatures of the Siamese Plenipotentiaries.

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TARIFF OF EXPORT AND INLAND DUTIES TO BE LEVIED ON ARTICLES OF TRADE.

SEC. I.—The undermentioned articles shall be entirely free from inland or other taxes on production, or transit, and shall pay export duty as follows:—

	Tical. Salung. Fuang.	
1 Ivory,	10 0 0	per pecul.
2 Gamboge,	6 0 0	„
3 Rhinoceros' horns,	50 0 0	„
4 Cardamoms, best,	14 0 0	„
5 Do. bastard,	6 0 0	„
6 Dried mussels,	1 0 0	„
7 Pelican's quills,	2 2 0	„
8 Betel nut, dried,	1 0 0	„
9 Krachi wood,	0 2 0	„
10 Shark's fins, white,	6 0 0	„
11 Do. black,	3 0 0	„
12 Lucraban seed,	0 2 0	„
13 Peacock's tails,	10 0 0	per 100
14 Buffalo and cow bones,	0 0 0¾	per pecul
15 Rhinoceros' hides,	0 2 0	per pecul.
16 Hide cuttings,	0 1 0	„
17 Turtle shells,	1 0 0	„
18 Soft shells,	1 0 0	„
19 Biche-de-mer,	3 0 0	„
20 Fishmaws,	3 0 0	„
21 Birdsnests, uncleaned,	20	per cent.
22 Kingfisher's feathers,	6 0 0	per 100
23 Cutch,	0 2 0	per pecul.
24 Beyche seed (nux vomica),	0 2 0	„
25 Pungtarai seed,	0 2 0	„
26 Gum benjamin,	4 0 0	„

	Tical. Salung. Fuang.			Tical. Salung. Fuang.	
27 Angrai bark,	0 2 0	per peeul.	39 Elephant's hides,	0 1 0	per peeul.
28 Agilla wood,	2 0 0	„	40 Tiger's skins,	0 1 0	each.
29 Ray skins,	3 0 0	„	41 Armadillo skins,	4 0 0	per peeul.
30 Old deer's horns,	0 1 0	„	42 Stick lac,	1 1 0	„
31 Soft or young horns	10	per cent.	43 Hemp,	1 2 0	„
32 Deer hides, fine,	8 0 0	„ 100.	44 Dried fish, flaheng,	1 2 0	„
33 Do. common,	3 0 0	„	45 Do. plasalit,	1 0 0	„
34 Deer sinews,	4 0 0	per peeul.	46 Sapan wood,	0 2 1	„
35 Buffalo and cow hides,	1 0 0	„	47 Salt meat,	2 0 0	„
36 Elephant's bones,	1 0 0	„	48 Mangrove bark,	0 1 0	„
37 Tiger's bones,	5 0 0	„	49 Rosewood,	0 2 0	„
38 Buffalo horns,	0 1 0	„	50 Ebony,	1 1 0	„
			51 Rice,	4 0 0	per koyan.

Sec. II.—The undermentioned articles, being subject to the inland or transit duties herein named, and which shall not be increased, shall be exempt from export duty.

	Tical. Salung. Fuang.			Tical. Salung. Fuang.	
52 Sugar, white,	0 2 0	per peeul.	58 Dried prawns,		*one-twelfth.*
53 Sugar, red,	0 1 0	„	59 Tilseed,		„
54 Cotton, cleaned and uncleaned,	10 per cent.		60 Silk, raw,		„
			61 Beeswax,		*one-fifteenth.*
55 Pepper,	1 0 0	per peeul.	62 Tallow,	1 0 0	per peeul.
56 Salt fish, platu,	1 0 0	per 10,000 fish	63 Salt,	6 0 0	per koyan.
57 Beans and peas,	*one-twelfth.*		64 Tobacco,	1 2 0	per 1000 bundles.

Sec. III.—All goods or produce unenumerated in this tariff shall be free of export duty, and shall only be subject to one inland tax or transit duty, not exceeding the rate now paid.

L. S.

TOWNSEND HARRIS.

Signatures of the Siamese Plenipotentiaries.

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